**REPORT DOCUMENTATION PAGE**

This two-volume document recounts the natural, cultural, and National Park Service administrative history of Capitol Reef National Park, in south-central Utah. Volume I provides an introductory look at the geology of the Waterpocket Fold, Native American occupation, and Euro-American exploration and settlement. Following those chapters are more detailed chronicles of the 1937 establishment of Capitol Reef National Monument, the resources-related issues that arose from that act, a variety of expansion proposals, and the final re-designation and expansion of Capitol Reef as a national park in 1971. Volume II comprises a series of topical chapters detailing resources issues that arose decades ago at Capitol Reef, but which remain controversial to this day.

The purpose of this administrative history is to help park managers understand the cultural and political milieu surrounding modern park issues. This historical grounding will help those managers to understand the widely varying needs and attitudes of the park's stakeholders, and the implications that their decisions might have for Capitol Reef's resources and for its neighbors.
Cover Photograph: Southern San Rafael Fremont style rock art figures from the Fremont River Gorge, Capitol Reef National Park. NPS photo.
FOREWORD

As a part of the National Park Service's mission to protect and interpret its resources, it is important to make valuable historical information readily available. To further that goal, I am pleased to present this volume in our occasional series of publications on the Intermountain Region's past.

This history is the second of a two-volume administrative history of Capitol Reef National Park. Volume I reviews the area's natural and early cultural history, and then recounts Capitol Reef's designation first as a national monument and later as a national park. Volume II consists of a series topical chapters relating to resources issues, including grazing, water rights, mining, and road rights-of-way. Written by Bradford Frye as his Master's Thesis at Eastern Washington University, this comprehensive history will aid present and future managers in both protecting valuable resources at Capitol Reef and at serving their public.

John E. Cook
Director
Intermountain Region

Mission: As the nation's principal conservation agency, the Department of the Interior has responsibility for most of our nationally-owned public lands and natural and cultural resources. This includes fostering wise use of our land and water resources, protecting our fish and wildlife, 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 assure that their development is in the best interests of all our people. The Department also promotes the goals of the Take Pride in American campaign by encouraging stewardship and citizen responsibility for the public lands and promoting 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 the U.S. Administration. NPS-D-73
ABSTRACT

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CHAPTER 12

GRAZING AND CAPITOL REEF NATIONAL PARK:
A HISTORIC STUDY

Livestock grazing has been the most dominant and frustrating resource issue throughout Capitol Reef National Park's history. Because of the inherent conflicts between the local dependence on livestock and the limited-use, preservation philosophy of the National Park Service, grazing management has become a target issue for park managers, neighboring federal agencies, local communities, and single-use advocates.

For all the attention that grazing has received at Capitol Reef, there has yet to be commissioned a comprehensive history of livestock management and its impacts from the 19th century to the present. This history, nonetheless, proposes to answer some of the key questions about the nature, origin, and impacts of past grazing practices, and to describe National Park Service grazing management at Capitol Reef since the area's initial designation as a national monument.

Over the past 100 years, grazing became interwoven into the cultural and economic fabric of south-central Utah. During this time, the desert areas serving as traditional winter grazing range were heavily used and abused. When the National Park Service brought its limited-use philosophy to Capitol Reef in the late 1930s, conflict was inevitable. A lack of National Park Service attention and understanding, together with the agency's desire for quick solutions, exacerbated tensions. The steel of federal preservation management struck against the flint of local lifestyles has sparked ongoing grazing management conflicts at Capitol Reef National Park. Underlying reasons for these disputes must be analyzed and understood if the cycle of lingering conflict is to be broken so a new, more cooperative relationship among all parties can be created.

Chapter 12 is organized into seven sections. The first three sections establish the historical context by discussing how traditional livestock practices and federal grazing management evolved, first in Utah and elsewhere in the West, and then in the Waterpocket Fold country where Capitol Reef National Park is today. It was during this early period that many of the lands now within the national park were altered by a combination of overgrazing, drought, and economic fluctuations. This was also the time when the first regulation was attempted. Those early efforts at grazing management by the U.S. Forest Service (USFS) and what later evolved into the Bureau of Land Management (BLM) have
had a significant effect on the livestock industry and the local relationship with federal land management agencies.

The remaining four sections of Chapter 12 primarily focus on grazing management at Capitol Reef as it evolved from a small national monument to a sprawling national park. From the monument's establishment in 1937, through the controversial expansion and park designation in 1971, to the grazing phaseout debates, Capitol Reef managers struggled to find ways to protect lands already used by cattle. By the time a partial buyout of grazing permits was possible in the late 1980s, the previous conflicts had left scars that may persist for years.

The sources researched for this study came primarily from the National Park Service records, Record Group 79, found in Capitol Reef National Park's archives, superintendent's and resource management files, and at the National Archives, Rocky Mountain Region (now, Intermountain Region) in Denver. The records of the Bureau of Land Management, Record Group 49, were also examined in the National Archives, Denver, and at the Henry Mountain Resource Area files in Hanksville and Escalante, Utah. United States Forest Service records pertaining to areas adjacent to Capitol Reef were reviewed in Teasdale and Loa, Utah. The author thanks Keith Durfey for his help in examining these local BLM and USFS records.

Other primary documents came from the Utah State Historical Society archives and the special collections at Utah State University in Logan. Secondary sources and interviews provide additional insight and case examples. For more detailed background information such as a physical and historical description of the Capitol Reef area, see Volume I of this history. Copies of the legislation that established the monument and the park are provided in the appendix to Volume I.

The Evolution of Grazing in Utah

Vegetation Before the Introduction of Domestic Livestock

The focus of this study is the history of grazing management, but the actual impact of livestock on the park's natural resources is an important part of this history. Since ardent disagreement exists over the nature and severity of those resource impacts, it is important first to document vegetation changes within Capitol Reef National Park. The information provided here, however, is only a cursory look. For more detailed information, consult the appropriate management documents or specific grazing studies, which are listed in the bibliography at the end of this chapter.

While there have been a variety of historic and scientific accounts describing range conditions throughout Utah and the West, the isolation of Wayne and Garfield Counties prevented the recording of any comprehensive, scientific descriptions of vegetation before the 1930s. The descriptions and oral testimonies used to reconstruct earlier conditions, while illustrative, are not complete or systematic. Nevertheless, virtually every account,
whether of Utah in general or the Waterpocket Fold region of Capitol Reef in particular, documents considerable vegetation change over the past 100 years.¹

Utah's pre-settlement vegetation of the 4,000-to-7,000-foot range of elevation, which describes most of Capitol Reef, is described as follows:

Where the soils and the moisture supply was somewhat more favorable than ordinary, as along stream courses, the wheatgrasses and giant ryegrasses predominated. On drier sites sagebrush was proportionately more abundant but bore grasses between the sages in considerable amounts. Practically always the plant cover was dominantly a mixture of wheatgrass (or ryegrass) and sagebrush.²

The first known written description of Utah came from the journal of Friar Francisco Silvestre Velez de Escalante. Escalante, along with his fellow Franciscan, Francisco Atanasio Dominguez, circled around the Colorado Plateau in 1776. According to the journal, Utah Valley, near present-day Provo, contained bountiful "pasturage" that recently had burned. Escalante postulated that the area's native inhabitants were burning the grasses to prevent the friars' party, with its small herd of horses, from entering their lands. There are many accounts of American Indian people burning areas to maintain


grasslands and otherwise manipulating natural resources well in advance of European settlement. 3

Closer to Capitol Reef, Dr. Almon H. Thompson, who led John Wesley Powell's 1872 survey party through the Waterpocket Fold, commented that the abundant grasses on Boulder Mountain would someday be "a perfect paradise for the ranchers." 4 Expedition photographer Jack Hillers described the lush grasses and evidence of the first known cattle to graze in the vicinity of lower Pleasant Creek, perhaps within today's park boundaries:

This is the great hiding [place] of the Indians and many heads [of cattle] have found their way in here, all stolen from the Mormons, who never suspected for a moment that their friends the Utes would do the like, but thinking the Navajos the guilty party....They never dreamed that here the Indians feasted on broiled steak. Wild oats grow here the same as cultivated does anywhere else but not so heavy. 5

Many of the first ranchers in southern Utah also recalled abundant, tall grass. Dixie National Forest Ranger William Hurst documented a 1935 conversation with Elias Hatch, one of the original ranchers in the area. Hatch recalled that, prior to livestock grazing on the eastern boundary of the forest, there was no sagebrush on nearby mountains, and forage consisted of "a heavy stand of pershia, snowberry, choice grasses, and weeds." 6

Ranger Hurst noted that this description was accurate, supported by numerous other ranchers and by his own observations. Interviews corroborate the latest scientific evidence that range vegetation at Capitol Reef itself has changed during historic times.

For instance, the monument's first superintendent, Charles Kelly, recorded the observations of several older ranchers regarding the altered condition of the range. For instance, Kelly made one trip east of Hanksville in the company of an old cowhand, Court Stewart (whose name is inscribed in Capitol Gorge). Stewart looked at some rather bare ground and commented that, when he was a kid, that spot -- in fact, the whole desert -- "had grass on it that would rub the stirrups on a horse." 7

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3 Ibid., 369. Walter Cottam, "The Impact of Man on the Flora," has an excellent summary of the effect of fires started by American Indians on Utah's pre-settlement vegetation.


5 Don D. Fowler, ed. Photographed All the Best Scenery, 121.


Howard Blackburn, another early cattleman in Wayne County, also remembered the land before settlement. Blackburn told Kelly in 1946 about his first trip through what is now the heart of Capitol Reef National Park, in about 1881:

Sulphur Creek was then a tiny stream and had cut no canyon. Dirty Devil river was not more than a rod wide, its course thickly lined with willows. Most of the valley at Fruita was covered with a heavy growth of squaw bushes...The whole country, now an almost barren desert, was then heavy with tall grass.8

These accounts and a glance at the landscape today suggest that the vegetation covering the ranges of Capitol Reef has indeed substantially changed. The rugged, slickrock nature of the region has naturally limited grazing to the flatter, more open areas on the flanks surrounding the towering Waterpocket Fold. Grazed lands in the northern Cathedral Valley, southern Sandy Creek, Bitter Creek, and Halls Creek areas have always supported sparse vegetation. Yet, where bunch grasses and willows once dominated, cheatgrass, snakeweed, and tamarisk (all exotics or recent invaders) have become abundant. Large areas of grasses grow in some locations, while other areas have a few grass clumps only a couple of inches high.9

Based on analysis of preserved plant remains, Kenneth Cole's 1992 "Survey of Fossil Packrat Middens" offers a scientific reconstruction of vegetation cover prior to domestic livestock grazing. Cole cautions that his examination of packrat middens in the Hartnet Draw area in the northern end of the park and the Halls Creek drainage in the southern end of the park is not definitive. Nevertheless, he did establish that the vegetation collected by packrats for constructing their nests changed dramatically over the past 100 years. This change reflects the availability of plants in the local environment, where the rodents collect their materials. While Cole noted some cyclical change among the older varieties, such as certain grasses, pinyon, and winterfat, he observed:

None of the Presettlement middens are as different from the other Presettlement middens as are The Postsettlement middens. This suggests that recent changes in vegetation have been more severe than previous natural changes. In particular, at Hartnet Draw, where the time series of middens near one site yield the most reliable results, the vegetation changes occurring the last 100 years were more severe than any that had occurred


during the prior 5400 years. This perspective of natural variation emphasizes the extreme severity of the recent vegetation changes.\(^\text{10}\)

The fact that plant communities covering the arid plateau lands of southern Utah have changed is well substantiated. What now needs to be established is exactly how and when the changes occurred. If grazing caused today’s comparatively depleted or altered rangeland, did these changes occur recently, historically, or cumulatively? What activities or policies caused the present landscape legacy? By placing grazing at Capitol Reef into its historical context and developing an understanding of when and how livestock management has evolved in the Waterpocket Fold country, present and future managers at Capitol Reef will be better equipped to make long-range policy decisions.

**Early Utah Settlement and Grazing Patterns**

The organized Mormon settlement of Utah, being different from settlement elsewhere in the American West, has left distinctive imprints on grazing history. The early communal herds, a spiritual belief in land stewardship, and significant control by Mormon Church officials resulted in a different tradition of grazing practices here. Yet, despite the best of intentions, the abundant ranges of Utah began to see almost immediate depletion. This resulted from a lack of knowledge about arid environments, the influx of large, non-Mormon owned herds, and the rapid “Americanization” of Mormon grazing practices that ensue.\(^\text{11}\)

The first arrivals to the foothills east of the Great Salt Lake in the late 1840s were from the Midwest, as were the stock they brought with them. Geographically isolated from new livestock breeds and the spread of customs dubbed the “Texas Invasion,” Utah Mormons were able to establish their small herds in Utah before the huge, non-Mormon-owned herds arrived in the 1870s.\(^\text{12}\)

The first outlying settlements north and south of Salt Lake City were founded near rivers emerging from the Wasatch and Oquirrh Mountains. Factors considered when deciding the suitability of a new settlement site included:

- The presence of good soil, water enough for irrigation and for livestock, and timber supplies suitable for buildings, fences, fuel, and farm uses, and
- native forages for feed....The agricultural needs of the Mormon people

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\(^{10}\) Cole, 24-25.


\(^{12}\) Peterson, "Grazing in Utah," 301. The rise and spread of the cattle industry after the Civil War is best told in Walter Prescott Webb, The Great Plains (Boston: Ginn and Company, 1931), 205-244.
founding Utah were (a) for areas of dependable land for cultivation, (b) irrigation water, (c) for nearby forage suitable as feed for horses, oxen, and farm livestock, and (d) sufficient range forage in the mountains, foothills, and semidesert valleys not immediately adjacent to the settlements to support range livestock. Permanent occupation depended in a large measure on the proper combination of all four of these resources. 13

Since most of the meager lumber supply was used for house and barn construction, and because the settlements were springing up so quickly, the individual herds of cattle and sheep were gathered into common grounds for community herding. 14 Most Mormon families had at least a few head of cattle and sheep producing milk, cheese, wool, and meat. Customarily, groups of boys would assemble the numerous small herds each morning, and range the stock "on the nearby foothills in summer or flats in winter," bringing them back in the evening. 15 This kind of cooperative, town-based herding was distinctly different from the Hispanic and Texan traditions of expansive, open range ranching that were adopted elsewhere in the West throughout the 1860s and 1870s. Most distinctive of Mormon ranching practices, however, was the role of the church in governing the range and molding cultural attitudes towards the land.

**Mormon Cultural Influences on Grazing**

The Church of Jesus Christ of Latter-day Saints inarguably established among its members a certain regard toward the land. It also created a kind of Mormon perspective, which viewed "outsiders" as threatening to property rights and traditional lifestyles.

Like many rural residents of the American West, Mormon livestock owners viewed the land in terms of its economic potential. To the settlers of the arid and semi-arid landscapes that predominate throughout Southern Utah, the country was economically useless except for grazing. A strong spiritual confidence and the need to succeed and spread motivated church members to ranch on the forbidding open lands of Southern Utah -- and to make those lands produce. Modern resistance to preserving these public lands as wilderness or national parks is rooted in these same religious and economic motivations.

Many biblical references are interpreted by Mormons as ordaining their settlement of Utah. Perhaps the clearest is Isaiah 2:2: "And it shall come to pass in the last days, that the mountain of the Lord's house shall be established in the top of the mountains, and shall be exalted above the hills; and all nations shall flow unto it." 16

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14 Charles S. Peterson, "Grazing in Utah," 301.
15 WPA Grazing History, Chapter 1, 9.
16 Isaiah 2:2, Holy Bible [King James version]. Interpretation of this and other verses is offered by the author in consultation with Mormon friends and co-workers.
Once settled in Utah, the Mormons looked at these new, unclaimed lands as their own, to be used in the wisest, most prudent manner that would benefit the individual and the church. The Mormon *Doctrine and Covenants* states:

[T]he fullness of the earth is yours, the beasts of the field and fowls of the air, and that which climbeth upon the trees and walketh upon the earth; Yea, and the herb, and the good things which come of the earth, whether for food or for raiment, or for houses, or for barns, or for orchards, or for gardens, or for vineyards; Yea, all things which come of the earth, in the season, thereof, are made for the benefit and the use of man, both to please the eye and to gladden the heart;...And it pleaseth God that he hath given all these things unto man; for unto this end were they made to be used, with judgment, not to excess, neither by exhortation. [Emphasis added.]

This belief that the lands were for man to use as he saw fit was tempered by strict control by church officials, which in theory should have preserved the natural resources of Utah. Historian Dan Flores writes:

With their centralized leadership and their belief that the earth and all its products were the property of a divine entity, the Mormon brand of stewardship was at once less theoretical than Christian stewardship. Individual Mormons, for example, dedicated land and projects to the divinity. Additionally, the doctrine of continuing revelation was not only a boon for coping with a new environment, but endowed church decrees on natural resources with the power of supernatural sanction. The Mormons thus provide the closest American experience of the Judeo-Christian stewardship ethic, or the 'Abrahamic Land Concept,' in action on a pristine Frontier.

Perhaps the most significant outlook toward the lands of Utah by the Mormons, however, is the attitude that the land was theirs and could not be taken from them. Again, this is a belief shared by many early settlers, as well as 20th century residents of the West. Yet the perception of persecution and identification as a chosen people would reinforce the Mormon belief that they should resist outsiders entering their lands and attempting to manage their livestock and lives. The *Book of Mormon* states:

Wherefore, this land is consecrated unto him whom he shall bring.... And behold it is wisdom that this land should be kept as yet from the knowledge of other nations; for behold, many nations would overrun the land, that there would be no place for an inheritance. Wherefore I, Lehi, have obtained a promise that inasmuch as those whom the Lord God shall bring

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18 Flores, "Phases of the Environmental History of Utah," 164.
out of the land of Jerusalem shall keep his commandments, they shall prosper upon the face of this land; and they shall be kept from all other nations, that they may possess this land unto themselves. And if it so be that they shall keep his commandments, they shall be blessed upon the face of this land; and there shall be none to molest them, nor to take away the land of their inheritance, and they shall dwell safely forever.¹⁹

Thus, not only is the land rightfully theirs, but so long as Mormons remain in good faith, the use of that land can not be taken from them. This notion is reiterated in the next passage, which warns that God would “bring other nations unto them, and he will give unto them power, and he will take away from them the lands of their possessions, and he will cause them to be scattered and smitten” if his people were not faithful.²⁰

Utah, unlike the other Western states where grazing would begin to dominate in the last quarter of the 19th century, was established on firm religious grounds. Here, the earth itself was consecrated to the Mormon settlers as a chosen people, and promised to them for as long as they remained faithful and good stewards of the land. Such strong belief in the rights of Mormons to be the stewards of these chosen lands also helps explain why many Utah ranchers view all their traditional grazing lands, whether on federal lands or not, in terms of private property rights.

Despite the good intentions of the original Mormon settlers of Utah and the controlling influence of church officials, the lands grazed by the Mormons’ cattle and sheep quickly began to deteriorate, even before the invasion of "other nations."

American Indians were noticing the decline in grass and wild animals as early as the 1850s, and overgrazing was noticed by the Mormons themselves a decade later. Apostle Orson Hyde of Sanpete County (30 miles north of Capitol Reef National Park) warned the General Conference of Saints in 1865 of a deteriorating range:

I find the longer we lie in these valleys that the range is becoming more and more destitute of grass; the grass is not only eaten up by the great amount of stock that feed upon it, but they tramp it out by the very roots; and where grass once grew luxuriantly, there is now nothing but the desert weed, and hardly a spear of grass is to be seen.²¹

The eastern and midwestern farming methods used by most early Mormons were not appropriate to the arid, Western landscape. Again, according to Flores:

Even before the rush of individualistic Gentiles into the territory, Utah's environment was showing signs of deterioration. In its efforts to provide

²⁰ Ibid., 2 Nephi 1:11.
for the growing numbers of converts by making 'the desert bloom like a
rose,' the Mormons decidedly overstrained the fragile Wasatch
environment. Accustomed to eastern conditions and lacking scientific
knowledge of plant succession, or the relationship between water,
vegetation, and slope, and forced increasingly both to provide for larger
numbers and compete for resources with non-Mormons, the church could
not develop a land ethic.  

The arrival of huge cattle and sheep herds during the 1870s and 1880s not only worsened
the problem, but forever changed livestock management in Utah.

**Large Herds and the "Americanization" of Utah Grazing**

Beginning sometime in the 1870s, large herds were pushed onto Utah's open range, where
only a few small, cooperative herds grazed before. The move was slow in starting, again
due to Utah's geographical barriers. There was an increase from 39,180 cattle, reported in
the 1870 census, to 132,655 in the 1880 census. Yet, at the same time, neighboring
ranges in Colorado, Wyoming, and Montana were supporting well over twice that many
cattle, most driven north from Texas.

The 1880s saw the real boom in livestock numbers as cattle jumped to 200,000 by 1885
and nearly 420,000 by the middle of the 1890s. Meanwhile, sheep were also being driven
into Utah at an alarming rate:

> From the modest beginnings of only a few head per farm, sheep increased
> so rapidly after 1875 that the ranges of Utah were supporting one million
> head by 1885; nearly two million in 1895; 2,600,000 in 1905.

According to all available accounts, this dramatic increase in livestock at the end of the
19th century was due to arrival of several large outfits financed by eastern and English
capital, and to local Mormons increasing their own herds to compete on lands that were
previously theirs, alone.

The federal Works Progress Administration history of grazing in Utah, compiled during
the late 1930s, blamed these invading herds for much of the damage to Utah's ranges:

> [T]he system of handling livestock during the boom days was simply no
> system at all, first come - first served, during any season of the year....This
country to all appearances was yearlong range in the eighties, and it would
no doubt have continued to be such and supported many head of cattle had
not the large eastern companies come in. There can be no doubt but that

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22 Flores, 167.

23 WPA Grazing History, Chapter 4, Box 4, Folder 12, Utah State University Special Collections, 4.

24 Ibid., Chapter 1, 23.
these companies came in to get all they could, utilize the virgin range and cash in on it.  

Yet throughout this era, the small Mormon ranchers with herds of only a few hundred cattle continued to be the dominant operators. The extremely large herds of cattle and sheep were owned by only a handful of powerful operators "who ruthlessly grabbed all they could, while they could -- and unloaded." 

The Works Progress Administration estimated that there were only four large companies with over 50,000 head of cattle each. The next class of owners, about 50 total, included those holding 1,000 to 5,000 head. The majority of livestock owners continued to be those owning only a few head "that were incidental to farming...in which case they were regarded as cattle men and not farmers." 

Both the WPA Grazing History and the respected historian Charles Peterson have blamed these large herds for the beginning of overgrazing. Utah ranchers, responding to outside competition, increased the size of their own herds and adopted herding practices common throughout the rest of the West. Historian Flores argues that non-Mormon pressure on Utah's resources caused Mormons to lose their "affection for egalitarianism." He explains:

When [Brigham] Young's death in 1877 removed the major advocate of the old order, Mormons in Utah began a process of Americanization....Although separation of church and state and abandonment of plural marriages were the most symbolic reforms required to 'bring the territory into conformity with national standards,' Americanization in process had meant a tacit recognition that resource use was a matter of competition rather than 'state' planning. 

In response to pressure, Mormons abandoned the old, church-encouraged stewardship and their small, cooperative herds in favor of larger, mobile flocks of sheep and cattle that could better compete for remaining ranges. The effect of this change was an "Americanization" of grazing in Utah and an even more rapid deterioration of the fragile, arid range.

The large outfits entering Utah during the 1880s included those of Preston Nutter, who ranged cattle west and north of the Colorado River; the Pittsburgh Company, which took over some of the small ranches around La Sal; and the Carlstens from England, who bought out ranches near the Blue Mountains. Closer to Capitol Reef, many of the larger ranches that had started up during the cattle boom days of the 1880s were developed by

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25 Ibid., Chapter 4, 24.
26 WPA Grazing History, Chapter 1, 24.
27 Ibid. These small- to middle-sized operations predominate in Utah grazing at the end of the 20th century.
28 Flores, 167.
Mormons. The Scorups, from Salina, used a great deal of range east of the Waterpocket Fold. Another Utahn, Will Bowns, of Sanpete County, developed the Sandy Ranch a few miles south of Notom. Other ranches founded around the Henry Mountains around the turn of the century included John A. Burr's Granite Ranch, and the Starr, Fairview, and Trachyte ranches, some of which were Mormon-owned.  

Interviews conducted for the WPA grazing history give a clear picture of the competition between the large and small outfits. Niel Ray, of Moab, recalled:

> These first settlers were not trying to become big cowmen, they only wanted enough cows to give them a good living, and they wanted to keep it that way and have the range like it was to pass on to their children and grandchildren. But even before 1900 the eastern companies started buying out the little fellows and after that they had big outfits, run by foremen, and hired riders from out of the community. These riders were tough hombres, many of them wanted by the law in Texas, Oklahoma and those places.

Non-Mormon livestock companies pressured ranchers around Capitol Reef, too. Guy Pace, a long-time Wayne County rancher, describes the situation:

> On the winter ranges [east and north of Fruita] we were getting operators from all over. Coming in from Colorado and everyplace. Just coming in. See, there was no controls at all...And people that had big herds of livestock [were] coming from all over, providing there was grass. It was a result of that, see, it depleted the ranges to beat hell.

Regardless of whether range damage was caused by the large herds coming in or by the local, Mormon-owned herds, these large cattle and sheep companies left their mark on local culture, its oral traditions and, of course, the range. Southern Utah was particularly affected:

> In this wonderland the large cow outfits like the Carlysle, Pittsburgh, and Elk Mountain existed for a decade and left history colored with long ropes, fast horses, smoking six guns, Robbers Roost, outlaw gangs, and blood. Texas cow punchers, Texas cattle, and Texas methods were introduced. The punchers grew in number; the cattle were rapidly bred away from the longhorn strain; and the old methods could not be used.

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30 WPA Grazing History, Chapter 1, 25.


32 WPA Grazing History, Chapter 4, 24.
There was also a general mixing of the wild Texas cattle culture with that of the more reserved Mormons. Charles Peterson wrote:

Young and full of life, cowboys invaded the Mormon towns socially. As a local folksong put it, they drank at Monticello's Blue Goose Saloon, traded with Mons's store (the town's only mercantile institution) and 'danced at night with the Mormon girls.' Occasionally there was gunplay....More important was the fact that a dozen or so outside cowboys married Mormon girls. Frequently these men stayed in the country where they became the relaxed channels through which Texas and Mormon customs evolved.33

This “Americanization” of grazing in Utah thus resulted in social, cultural, and economic changes that have lingered to the end of the 20th century. Perhaps the most significant of these changes was the adoption of the Texas style of ranching, which encouraged larger herds, running virtually wild, with few roundups or closely guarded water supplies. This altered the traditional Mormon pattern of small, cooperative herds, closely watched and often turned in toward town or the base ranch on a regular basis. Instead, sheep and cattle herds, in excess of natural carrying capacities, were moved to pasture earlier and earlier in the spring to claim what was left of the diminishing grasses.34

The federal Works Progress Administration study of grazing in Utah used interviews with hundreds of "stockmen, authorities and students of the range" to establish a maximum carrying capacity for Utah of 300,000 cattle and 2 million sheep. These levels were reached sometime in the 1890s.35 Yet, figures showed that there were as many as 420,000 head of cattle in 1895 and a gradual increase to over 500,000 by the peak year of 1920. Meanwhile, sheep numbered 2 million in 1895, increased to 2.6 million 10 years later, and then fluctuated in number before reaching peaking at over 3 million head "crowding the arid, desert winter feeding grounds."36

There is ample testimony that the stiff competition between livestock herds destroyed range conditions and introduced new, invasive plant species by the turn of the century. According to information the WPA gained from the United States Forest Service:

The livestock industry in this section [of the intermountain region] reached its peak as far as numbers were concerned around the turn of the century. Practically every available foot of accessible range was being intensively used. It was: first there, first served....All this time the condition of the vegetation was forgotten. Feed for the current year was the by-word. There was a race to reach the feed. Stock were placed on the range too

33 Peterson, "Grazing in Utah," 312.
34 Peterson, 315.
35 WPA Grazing History, Chapter 1, 36.
36 Ibid., 23.
early and in too great numbers. Summer range was at a premium and the stock were often left on the range too late in the fall....This was no fault of any stockman and no criticism is due him for the conditions that prevailed. The range was there and was free to the man who got it.\(^{37}\)

Glynn Bennion, who ranged cattle throughout central Utah, recounted:

Rush Valley was all a beautiful meadow of grass when we came here with stock in 1860; but in less than 15 years she was all et out, and we had move to Castle Valley...If you pass through the old livestock-growing communities of Utah you may think that those big old houses date back to the days of polygamy. Maybe so, but they also date back to that period in the life of every Western community when the grandfathers of the present tumble-down generation were making money hand over fist off the virgin ranges. The descendants aren't making any money now off the ranges their ancestors ruined.\(^{38}\)

Bennion went on to discuss the changes in vegetation as a result of overgrazing:

A resurrected pioneer couldn't even recognize the present desert flora. It bears scarcely any relation to that of 1860. For as the pioneer flocks killed out the best forage types, other plants of less flavor and nutrition took the vacant place in the sun. Then the grazing herds lowered their standard of living and 't ook' the poorer forms. Again the flora was changed to still worse types until by progressive deterioration we have the bitter, spiny, worthless kinds of today.\(^{39}\)

At approximately the same time, the geologist Herbert C. Gregory documented deteriorating range conditions around the Kaiparowits Plateau, southwest of Capitol Reef:

In crossing the Kaiparowits in 1915 grass for horses was abundant along the Wahweap, Warm, and Last Chance Creeks, and the mesas and dun-colored areas east of Paria....In 1922 there was insufficient forage for pack trains at all places except in the sand dune areas of the Escalante Valley. In September, 1924, no grass or browse of any kind was found in the unfenced areas of Boulder Valley and about Canaan Peak. There is no doubt that the Escalante and Paria Valleys and the Kaiparowits Plateau have deteriorated as pasture lands during the last decade, and it seems

\(^{37}\) "Some Highlights on Grazing History of the Intermountain Region of the Forest Service," part of WPA Grazing History, Works Progress Administration Writers' Project, 1940, Manuscript 8, Box 4, Folder 1, Utah State University Archives, 1.

\(^{38}\) Glynn Bennion, 1932 paper in Church of Jesus Christ of Latter-day Saints (LDS). Historian's Office, Salt Lake City, quoted in WPA Grazing History, Chapter 1, 39.

\(^{39}\) Ibid. Also see Cottam, "Effects of Man on the Flora," for a detailed description of altered vegetation in the heavily grazed areas of western Utah.
unlikely that they can be restored to the state existing during the period 1875-1890. Some system of reservation seems most likely to bring improvement.40

From the beginning the Mormon livestock industry affected the range. Then, the invasion of large, out-of-state cattle companies and the infusion of large sheep herds stimulated the local small ranchers to raise their own herd limits to meet the rising competition. The public lands that could be used for grazing seemed unlimited when the Mormons first arrived. Yet, by the first decades of the 20th century, not only was all the possible range being used, but competitive herding practices were reducing the carrying capacity of grazed lands at an alarming rate. Significantly, however, while livestock management practices changed during the booming 1880s, the spiritual and communal nature of the Mormon residents would remain the same. So would their resistance to outside government officials determining the fate of their chosen lands.

Origins Of Federal Grazing Regulation, 1880 To 1936

After The Boom: Economic And Range Deterioration

As was typical in the turn-of-the-century West, it was economics -- not the actual destruction of the landscape -- that eventually led to calls for change.

By the 1870s, the American economy was coasting toward tremendous expansion, and livestock speculation went along for the ride. The rapid advance in transportation by the railroads and growth in the eastern population helped fuel the cattle boom discussed above. In 1879, ordinary range stock sold at about $8 a head by the herd. Only two years later, the price was $12, and the scramble for more ranches and more land was fueled by speculators from around the world.41

At the same time, favorable weather patterns lulled many novice ranchers into a false sense of security. All this would change with the infamous winter of 1886-87. While it is unknown exactly what effect this winter had on southern Utah, hundreds of thousands of head of cattle and sheep throughout the American West were lost to starvation and sub-zero temperatures. When the winter was over, the industry was devastated:

Cattle that had been valued at from $30 to $35 on the range sold for $8 to $10, if they sold at all. The 'range rights' were found to be fictitious, and the free grass, if not gone, was going under fence now very rapidly. The holiday and fair-weather ranchman and remittance men suffered along with the real cattlemen.42

40 Gregory and Moore, The Kaiparowits Region, 35.
42 Ibid., 237.
After this "big die-off," the overstocked, overgrazed lands were subjected to several years of abnormal drought. Most large, speculative cattle operations folded by the end of the decade, leaving the smaller and mid-sized cattle ranchers to fight over the remaining public lands.  

**Early Public Land Policy**

One of the most oft-debated aspects of Western history is the role of federal public land development policy in shaping, or failing to shape, the Western public domain. The most widespread interpretation is that the disposition of federal lands from the 1780s, through such legislation as pre-emption and homestead acts, was undertaken for political reasons having little bearing on practical reality. These laws, ill-suited to the West, pitted settler against rancher or rancher against rancher, with speculation, land wars, and overgrazing as the lasting legacy.  

As land-use policy historian Phillip Foss observes:

> This incalculable waste of resources and human life was not a consequence of the forces of nature: nor was it a consequence of the operation of economic forces through the market and the price system. It was basically and fundamentally a result of political decisions which ordered social forces in such a manner as to disturb the balance of nature.

While the bloody range wars did not happen in Utah, thanks to its homogeneous and church-governed majority, ardent competition for mountain and desert ranges resulted in the destruction of vegetation. Even after the removal of many of the huge herds by 1900, the damage to the landscape was, literally, coming into Mormon homes as floods.

Throughout the rest of the 19th century and into much of the 20th, towns and cities have been inundated by flood waters no longer checked by deep-rooted grasses. Manti reported nine devastating floods between 1888 and 1909, and the years 1923 to 1930 saw a total of 16 Utah counties suffer from floods much larger than ever seen before. Around the Capitol Reef area, these floods had a significant impact on settlement:

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43 Ibid., 237-238; Wilkinson, *Crossing the Next Meridian*, 90.


46 Flores, "Phases of the Environmental History of Utah," 171.
Depletion of the range up country and the ploughing of banks practically to the water's edge, increased volume of floods and the result was a severe lowering of the stream bed. By the turn of the century, Mormons along the Fremont below the reef found that much of their farm land had caved away to be washed downstream and that the river itself was dropping below the level of the headgates. The result was a contraction of the original frontier of settlement as people began to move away.47

The combination of these floods with the depleted range conditions, continued poor livestock prices, and uncontrolled use of the public domain finally forced Congress to begin looking at regulating the federal grazing lands.

The first comprehensive examination of Western land use problems was completed by John Wesley Powell in 1878. His Report on the Land of the Arid Region of the United States proposed a new system of large, self-regulated ranching units:

The grasses of the pasturage lands are scant, and the lands are of value only in large quantities.

The farm unit should not be less than 2,560 acres. The division of these lands should be controlled by topographic features in such manner as to give the greatest number of water fronts to the pasturage farms.

Residences of the pasturage farms should be grouped, in order to secure the benefits of local social organization, and cooperation in public improvements.

The pasturage lands will not usually be fenced, and hence herds must roam in common.

As the pasturage lands should have water fronts and irrigable tracts, and as the residences should be grouped, and as the lands cannot be economically fenced and must be kept in common, local communal regulations or cooperation is necessary.48

These suggestions for future grazing control were undoubtedly influenced by his years in Utah observing early Mormon cooperative practices. In essence, they later became the foundation for the Taylor Grazing Act in 1934. Between 1878 and 1934, however, there were few actual attempts to institute federal grazing management, except within the national forests.

47 C. Gregory Crampton, "Mormon Colonization in Southern Utah and Adjacent Parts of Arizona and Nevada, 1851-1900," 1965, unpublished manuscript in Capitol Reef Unprocessed Archives; also see Charles Hunt, Geology of the Henry Mountains, 19, for details on the 1897 flood that devastated lower Wayne County, east of Capitol Reef.

The Forest Service Experiments With Grazing Reform

In order to place this study of Capitol Reef National Park's grazing history in context, it is important to examine how other federal agencies in the area have managed their grazing lands, particularly those later included in the national park. The U.S. Forest Service became the first federal grazing manager.

The first forest reserves were set aside by President Benjamin Harrison in 1891, as authorized by what is known as the Creative Act passed that same year. Just what would be done with these resources was not established until the late 1890s.

In 1897, in a pattern often repeated in the years to come, Western livestock industry fears of over-regulation (brought on by President Cleveland's unexpected addition of 21 million acres of forest reserves) prompted Congress to restrict the Department of the Interior's authority to enforce land management. (The forest reserves were not transferred to the Department of Agriculture until 1905.) To ensure future appropriations, initial attempts to dramatically restrict sheep grazing were softened. Cattle were not seen as a threat to national forest resources until later.49

For example, early attempts to prohibit sheep in some reserves suffering from overgrazing were abandoned. Instead, a system of free permits would be used to regulate sheep numbers and period of use. However, because there was no way to enforce the permit system, sheep continued to roam the reserves as before.50

By 1902, Theodore Roosevelt was in office and his friend, Bureau of Forestry Director Gifford Pinchot, was a rising influence in grazing management. Pinchot realized that unregulated competition between various livestock ranchers was depleting timber and watersheds. He believed that any grazing policy must include some kind of regulation, rather than prohibition and "resting upon cooperation among the user interests themselves." 51

The Department of the Interior, in a desperate attempt to rectify its previous attempts to manage the range, patterned its new grazing regulations after Pinchot's suggestions. A 1902 circular, issued by the department to help explain its new permit system, said that preference would be given to those who lived within or owned stock ranches adjacent to the forest reserve. Local woolgrowers' associations would recommend which ranchers received permits. This kind of self-regulated permit system favoring the local, established livestock operator, would dominate federal grazing management policy for the rest of the 20th century.52

50 Ibid., 40-45.
51 Ibid., 46.
52 Ibid., 46-47. At this time, cattle were not seen as controversial users of the reserves and were therefore not subject to this permit system.

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When the forest reserves were transferred to Gifford Pinchot's Department of Agriculture in 1905, the management policies did not appreciably change. The concerns of the now national forests were to "break down the opposition and hostile attitude that sheep and cattle men held" and at the same time "discharge faithfully the responsibility of protecting and perpetuating the priceless natural resources."  

The solution, according to the WPA Grazing History, was to establish "the first national forest advisory boards in Western range history, for the purpose of hearing by local forest officers the problems of allotment of range, numbers of stock to be grazed, adoption of special rules dealing with local conditions, etc." The history continues, "As soon as this provision was made, stock associations were formed on all the national forests. The stockmen welcomed these organizations and practically all the national forest permittees were represented on the advisory boards. Some of the original national forest livestock associations which were formed in Utah and Idaho are still in effect."  

These local advisory boards, made up of permittees elected by their peers, worked with the forest officials in granting permits, establishing allotments, periods of use, and carrying capacity for cattle and sheep. Information about local patterns and needs was the primary reason for the advisory boards. It was not their role to establish or enforce U.S. Forest Service policy. The advisory boards did, however, ensure the local ranchers' perceived right to graze as many head of livestock as possible.  

For example, in southern Utah:  

The allowance for the Aquarius Forest [the western part of Dixie National Forest] for 1907 was 11,000 head of cattle and 55,000 head of sheep. Cattle season April 15 to November 15 and sheep season lambers May 12, others June 25 to October 20. All applications for cattle and sheep were approved. All sheep applications were approved except those which applied for more than 3,000 head.  

Livestock numbers were sustained on the already depleted range, according to Dixie Forest ranger, in an effort to protect "the principal resource of income in Southern Utah." The ranger believed that, had the USFS in 1910 abided by established carrying capacities at that time, the range in 1935 would have supported more livestock.  

U.S. Forest Service officials recognized that local economic and social conditions had to be considered when determining the uses of federal lands. From the outset of the forest reserves, it was obvious that range management would be successful only if the ranchers

54 Ibid., 6.
57 William M. Hurst, Special Range Study, 14 October 1935, Ibid., 5.
themselves were involved. Contributing to this philosophy was the fact that most if not all the forest rangers during this time were from the local communities. While the advisory boards helped legitimize grazing policy in the national forests, the result was an inability to close off the range to ensure resource recovery. In short, grazing management in the national forests necessitated compromises by the users and federal agencies, while the resources themselves were compromised. This situation would arise again with the implementation of the 1934 Taylor Grazing Act.

**Economic Problems And Regulation Of The Public Domain: 1918-1934**

Following the establishment of national forest grazing policies, members of Congress attempted to pass legislation that would create a similar permit system on the rest of the public domain. Resistance from the woolgrowers, jurisdictional disputes between the Departments of Interior and Agriculture, and the lingering belief that the remaining public lands needed to be partitioned by the traditional homestead method, prevented action. By the 1920s, little had been done to correct range abuses, and the climate for regulation had only worsened. Grazing fees in the national forests had been low since their inception in 1906. By 1918, range conditions had apparently improved enough "to charge a rate which was more in line with the benefits derived." After World War I, however, congressional committees searching for ways to pay the war debt fingered grazing fees as a promising means of raising revenue. While the forest service stalled for time by urging new studies, stockmen opposed to the escalating fees "took advantage of the controversy over grazing fees to make things as uncomfortable for the forest service as possible." Congressional subcommittees were dispatched out into the field to hold hearings, which turned out to be forums for those dissatisfied with forest service grazing management. These hearings raised the hopes of stockmen that fees would be lowered or even abolished, and awoke the conservation groups who rose in opposition to any change in U.S. Forest Service operations. Historian Foss writes:

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59 See Wilkinson, *Crossing the Next Meridian*, 91-92, for a discussion of the Light v. U.S. court case that upheld the right to issue and charge for permits; 1906 fees were 20 to 35 cents per head for cattle and horses for the summer season or 50 cents a head for the entire year. Sheep ranchers were charged five to eight cents a head for the summer and goats eight to 10 cents a head, according to WPA Grazing History, "Forest Service," 7. There was also a special reduction for homebuilders near the forest, and for small stock owners. The reduction was intended to attract new settlers, according to Rowley, *U.S. Forest Service Grazing and Rangelands*, 60-61.

60 WPA Grazing History, "Forest Service," 7.

The net effect of the investigation appears to have been a weakening of the position of the forest service and a postponement of much-needed regulation of grazing on the public domain. As a result of the forest service fee controversy Western stockmen were more distrustful than ever of federal regulation. The same fee controversy convinced eastern conservationists that the stockmen were out to loot the public domain and that no legislation should be enacted which would in any way accrue to their benefit. And the range continued to deteriorate.62

Conditions might have remained in this state for many more years if not for a post-war livestock recession that led directly into the Great Depression. A lot of the Western livestock industry's anxiety over increased grazing fees during the 1920s was due to the agricultural slump after the war. The lower demand for meat and wool caused prices to fall and forced livestock owners to sell at basement prices. It seemed to many ranchers that the worst of the crisis was over in 1930. Then the Depression hit, coupled with an extended drought throughout the West, and the livestock economy appeared doomed. Ranchers must have been disheartened to see their smaller herds forced to graze on range that should be improving but which, because of the drought, was actually deteriorating.63

Many ranchers have claimed that drought did more to damage the range than overgrazing.64 Others, such as to Utah rancher Glynn Bennion, saw things differently:

If the range be considered the principal part of the grazer's capital stock, then we grazers have just about finished consuming our capital. We've got nothing much left to do business with. And all the time we've been kidding ourselves that we could eat our cake and have it. 'It's the drought,' we say when looking sourly out upon a depleted range. 'If we could only get the rainfall they used to have.' Let's quit kidding ourselves.65

The Works Project Administration's history of grazing in Utah found a depressing scenario for the state's livestock industry:

Ranchers and stockmen who were mortgaged were in many cases closed out, a good many turned their sheep, cattle or ranches over to the banks voluntarily; not however, until after they had been harassed beyond their endurance and could see no future ahead. Those who had kept their property unencumbered and now needed money and credit were unable to

62 Ibid., 47.
63 See "History of Dixie National Forests," 10-11, for an account of how ranchers in southern Utah, and particularly the Escalante area resisted any further range restrictions during the 1930s.
64 An example is provided by Kelly, "Reminiscences of Howard Blackburn."
65 Bennion, 1932, quoted in WPA Grazing History, Chapter 1, 39; see Hunt, Geology of Henry Mountains, 24-27, and Gregory and Moore, Kaiparowits Region, for early 20th century yearly rainfall totals for areas close to Capitol Reef.
obtain it. The years from 1930 to 1934 were the darkest in the history of the livestock industry, and from the viewpoint of the men themselves, the darkest years in the history of local endeavor. Their resources were exhausted; there was nobody or no place to turn. They were finished and merely to watch their animals starve to death.66

In Utah and throughout the rest of the West, the stockmen were in such a weakened state that they no longer fought, and in many cases welcomed, federal grazing regulations for the remainder of the public domain.

The Taylor Grazing Act: Passage And Implementation

By 1934, the economic and climatic devastation of the Depression years combined with the New Deal belief in federal assistance to make grazing reform inevitable. With many of the national livestock associations urging reform, and with Secretary of Agriculture Henry Wallace and Secretary of Interior Harold Ickes in strong favor of complete federal control of the remaining public domain, all that was left to decide was the exact wording of the enabling legislation.67

There was some reluctance among Western states to give up hope for some control of the lands, but the states had little budget or manpower to manage what lands they did control. Taking on marginal grazing lands would add to the burden. Utah Governor George Dern observed, "The States already own, in their school-land grants, millions of acres of this same kind of land, which they can neither sell nor lease, and which is yielding no income. Why should they want more of the precious heritage of desert?"68

In order to win the state-control advocates over to the Taylor Grazing Bill, Secretary Ickes promised to deliver Civilian Conservation Corps crews to help develop range improvements, such as fence, water holes, and stock driveways, in the more impoverished areas. He would do this, though, only if the range was under federal regulation.69

While the grazing reform bill sponsored by Congressman Edward T. Taylor (Colorado) was moving through the House with relative ease, Western senators, traditionally opposed to any federal regulation of land use, set about to block its path. The summer of 1934, however, saw the worst dust storms in the country's history, which weakened the last resistance to the Taylor bill. The Taylor Grazing Act was passed by the Senate on June 12, 1934, and signed into law by President Franklin D. Roosevelt on June 28, 1934.70

66 WPA Grazing History, Chapter 1, 40.
67 Foss, Politics and Grass, 56-57.
69 Foss, 57.
70 Ibid., 58; The Taylor Grazing Act of 1934 is found in U.S. Statutes at Large, 48 (1934): 1269.

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The reasons for supporting the Taylor Grazing Act are best summed up in the words of its sponsor:

I fought for the conservation of the public domain under Federal leadership because the citizens were unable to cope with the situation under existing trends and circumstances. The job was too big and interwoven for even the States to handle with satisfactory coordination. On the Western slope of Colorado and in nearby States I saw waste, competition, overuse, and abuse of valuable ranges and watersheds eating into the very heart of Western economy....The livestock industry, through circumstances beyond its control, was headed for self-strangulation. Moreover, the States and the counties were suffering by reduced property taxes and decreasing revenues.\(^{71}\)

On November 26, 1934, President Roosevelt signed an executive order that withdrew from classification all previously unclaimed public lands in Arizona, California, Colorado, Idaho, Montana, New Mexico, Nevada, North Dakota, Oregon, South Dakota, Utah, and Wyoming. These lands, considered valuable chiefly for grazing, were originally supposed to comprise no more than 80 million acres. When Congress realized two years later that this did not go far enough, the amount of land subject to the grazing act was almost doubled to 142 million acres. Of this land, 95 percent would be in areas of the West that received less than 15 inches of annual rainfall.\(^{72}\)

As stated in the legislation’s preamble, the purpose of the Taylor Grazing Act was to “stop injury to the public grazing lands by preventing overgrazing and soil deterioration, to provide for their orderly use, improvement, and development, to stabilize the livestock industry, dependent upon the public range, and for other purposes.” \(^{73}\)

In order to accomplish these goals, the Secretary of the Interior was authorized to:

make rules and regulations...enter into such cooperative agreements, and do any and all things necessary to accomplish the purposes of this Act and to insure the objects of such grazing districts, namely to regulate their occupancy and use, the preserve the land and its resources from destruction or unnecessary injury, to provide for the orderly use, improvement, and development of the range.\(^{74}\)

The secretary was given a great deal of flexibility in determining proper sale of some lands, leasing small parcels to owners of contiguous property, and exchanging lands with

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\(^{71}\) Congressman Edward Taylor, quoted in Foss, 59.

\(^{72}\) Ibid., 59, 74; Peffer, 222.

\(^{73}\) U.S. Statutes at Large, 48 (1934):1269.

\(^{74}\) Ibid., 1270.
states or private interests in order to consolidate federal lands within each grazing district.\(^{75}\)

Perhaps the most important components of the Taylor Grazing Act have been:

1) the Secretary of the Interior's authorization to determine and collect grazing fees;

2) the instructions to the secretary to provide "cooperation with local associations of stockmen, State land officials and official State agencies engaged in conservation...of wild life" \(^{76}\); and

3) the granting of preferential grazing privileges to "those within or near a district who are landowners engaged in the livestock business." \(^{77}\)

The first provision gave the secretary the power to charge fees and enforce regulations, the second attempted to comfort Western livestock owners by providing for what Congressman Taylor called "home rule on the range," and the third ensured that local, traditional use by established property owners would be guaranteed.\(^{78}\)

In a further effort to appease state governments, the 1934 act stipulated that 50 percent of grazing fees would be returned to the states, with the remainder to be split between range use and direct contributions to the U.S. Treasury. In 1947, the state cut was reduced to 12.5 percent.\(^{79}\)

No regulations or fees were established during the first year of the Taylor Grazing Act. This was intended to permit a slow transition that would accommodate the Western stockman, and also to provide an information-gathering period during which many of the lasting policy interpretations could be made.\(^{80}\)

From December 1934 to January 1935, the first director of grazing, Farrington R. Carpenter (a rancher and lawyer from Congressman Taylor's district), met with stockmen in 10 different states. Stockmen were then elected to a state committee that was charged with recommending grazing district boundaries. The most difficult problem Carpenter faced was trying to acquire as much detailed information in the shortest time possible about range conditions and carrying capacity for each individual district.\(^{81}\)


\(^{76}\) *U.S. Statutes*, 1273.

\(^{77}\) Ibid., 1271.

\(^{78}\) Foss, 62-64; Peffer, note 36, 221.

\(^{79}\) Foss, 60.

\(^{80}\) See Foss, 60-98, for an examination of the evolution of grazing management policy on the public domain.

\(^{81}\) Ibid., 80-81.
The grazing director's solution was to establish district advisory boards, elected by the permittees themselves. These would "provide much of the information necessary and at the same time assist in the decision making process both on detail matters and major policy items," and would also assist in gaining the compliance of local ranchers.82

The advisory boards, somewhat patterned after the U.S. Forest Service advisory boards, evolved into powerful groups that guaranteed local input into virtually every facet of public grazing management. Since there was little money or time for scientific surveys, district advisory boards helped determine the carrying capacities of grazing lands. Those numbers could later be revised, if necessary.83

In 1936, a year after the grazing districts had been established, the Taylor Grazing Act was amended to specify who should be hired into the grazing service. The Civil Service Commission was ordered to consider those with prior "practical" range experience. The amendment further stipulated that "no Director of Grazing, Assistant Director, or grazier shall be appointed who at the time of appointment or selection has not been for one year a bona-fide citizen or resident of the State or of one of the States in which such Director, Assistant Director, or grazier is to serve."84

Thus, in another concession to Western livestock interests, federal grazing officials were required to be a resident of the state in which they were assigned.

The Taylor Grazing Act, like the U.S. Forest Service grazing policies 30 years before, left as its legacy a system of federal range management that favored close cooperation with the concerned local ranchers. The purpose of this partnership was to reduce competition on the depleted ranges and thus provide desperately needed stability for the rancher. It was hoped that if the local ranchers were a willing, integral part of the decision making process, then future resource protection was assured. The federal government seemed to realize that Western livestock owners knew how to play the game, but just needed a few referees to prevent fouls and fights.85

Through all this legislation and early federal grazing management decisions, resource utilization was considered to be the only interest in these lands. It was further assumed that the only ones interested in these lands were the ranchers and their multiple-use neighbors, the miners and timber harvesters. By the 1930s, few recreationists or tourists were using -- let alone traveling through -- most of the lands "valuable only for grazing." The only visitors that would come through these desert and mountain ranges were, most likely, on their way to a national park or monument where (supposedly) there was no

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82 Ibid., 81.
83 Ibid., 64.
85 It is beyond the scope of this study to go into further detail on the history of Grazing Service and BLM management history. See Foss, Politics and Grass, for history up through the 1950s; for more recent accounts see Wilkinson, Crossing the Next Meridian, 93-101; and notes, 320-323.
grazing. It would take several more decades before tourists and environmentalists recognized the recreational potential of the Western ranges. In the meantime, as the federal advocate of preserving natural resources as scenery, the National Park Service would continue to confront the prospects of grazing on its own lands.

One of those confrontations, of course, centered on, Capitol Reef. Before examining the impacts of grazing and its management on national monument and park lands, it is first important to look at the evolution of grazing in the Waterpocket Fold country of south-central Utah.

**Grazing In And Around Capitol Reef Prior To 1937**

**Early Grazing Patterns In The Waterpocket Fold Country**

The first livestock ranchers in or close to what is now Capitol Reef arrived in the 1870s and 1880s. Due to the area's small population and its physical isolation, however, there are few outside accounts detailing ranching practices in the Waterpocket Fold country prior to the Taylor Grazing Act.

In this rugged, varied land, ranchers were free to graze their herds between the high-elevation summer pastures, on mountainsides rising over 10,000 feet, and the surrounding labyrinth of desert canyons and mesas, which provided winter range. Those who came later, especially after the national forest permit system was established in the early 1900s, ranged their sheep and cattle on the still unrestricted deserts year-round.

The effects of this unrestricted and highly competitive grazing were noticed in the Waterpocket Fold country in the early 1900s. Nethella Griffin, a long-time Boulder resident and daughter of prominent rancher John King, described the situation then:

> [It was a] period of struggle between cattlemen and sheepmen and among individuals for control of the range. Every year the country became worse overstocked until, beginning in 1902 there were several years of drought that naturally intensified the evil of overgrazing. Cattle died by hundreds....By 1905 the rich meadows on the mountain plateau had turned to dust beds. Sheep, bedded in the headwaters of the mountain streams and dying in the water ditches, so befouled them that ranchers' families could hardly get a decent drink of water. Cattle bones bleached on the dry benches and around mudholes and 'loco' patches, these poisonous weeds

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seeming to grow after other forage was dead and to attract starving animals with a false promise of food.\textsuperscript{87}

The U.S. Forest Service arrived on the scene when Fishlake National Forest was established northwest of the present National Park Service boundary in 1897. Powell (later part of Dixie) National Forest, adjoining Capitol Reef to the west, was created in 1905. The first known figures for cattle and sheep grazing near Capitol Reef are the Powell National Forest numbers, which presumably cover the summer pastures of those who grazed the Waterpocket Fold areas in the winter. In 1909, the U.S. Forest Service issued permits for 67,000 sheep and 11,000 head of cattle. These numbers gradually rose to 75,000 sheep and 13,800 head of cattle 10 years later.\textsuperscript{88}

According to a draft history of the Dixie National Forest, the early years of U.S. Forest Service jurisdiction were not easy:

From the time the National Forests were established Dixie Forest officers have worked long and hard to find out what was actually taking place on the ranges due to heavy grazing use. Vegetative changes were so very slow that it was always difficult to be sure whether the range was getting worse, holding its own, or in some cases getting better. Differences of opinion were nearly always present. Stockmen generally felt that the range was getting better. World War I brought demand for more meat and as a result permitted stock in 1917 reached the peak numbers on the Dixie Forests. Since that time there has been a sustained effort to reduce numbers. In most cases the productivity of the ranges fell faster than reduction of livestock numbers which resulted in cut after cut with no apparent improvement of the range as a result. Reductions down to 1/3 of the 1917 load were not uncommon. In spite of this there was no apparent upward trend of the range established.\textsuperscript{89}

Geologist Herbert Gregory, who made extensive geographic and geologic surveys of southern Utah throughout the early 20th century, confirmed the findings of the forest service:

The pioneer settlers, with small herds and flocks, before the native vegetation had been disturbed, were surrounded by conditions usual for stock ranges. 'Good years' of the period ending in 1893 were followed by bad years, culminating in 1896, when 'about 50 percent of the range stock died of drought and starvation.' Increased rainfall combined with the

\textsuperscript{87} Nethella Griffin, "Life in Boulder," 10-11; Hunt, Henry Mountains Region. 31 also mentions increasing numbers of poisonous plants on the Henry Mountains.

\textsuperscript{88} "Dixie National Forest History," File 1680. After 1919, the records of the various areas of the national forest were combined, making the later figures less meaningful.

\textsuperscript{89} "History of Areas Known as the Dixie National Forest from 1902 to 1960," Ibid., 10.
extension of grazing area...brought more favorable conditions. Overstocking of the range in response to the increased values of cattle during the World War appears to have been the first step toward the present unfortunate state.90

This pattern of use likely was common in the areas adjacent to the forest service and the Escalante area as reported by Gregory. In that case, is safe to say that southern Utah was following the cycles of good and bad years determined by climate, economics, and range deterioration found throughout the rest of the West.

As discussed earlier, the small, sometimes cooperative herds that were first on the range in the 1870s were soon increased by local ranchers responding to competition. By the early 1890s, the livestock depression reached into the isolated canyon country and combined with drought to bring on the first range crisis. By the beginning of World War I, increased demand for livestock and a series of wet years once again brought larger herds of sheep and cows onto both the forest and lower desert ranges. Then, the post-war agricultural recession and a return to drier times throughout the 1920s left the range and the livestock owners in the worst shape yet.

Other accounts concur that the range in and around Capitol Reef was already severely damaged by the early 1930s. A West Henry Mountains range survey, completed by the Bureau of Land Management in 1963, provides a brief description of past grazing use on the east side of the Waterpocket Fold.91

According to this survey, there was no domestic livestock use prior to 1875-76. Then in the early 1900s, Willard and George Brinkerhoff, William Meeks, and Will Bowns brought large herds of cattle to the area. At about the same time, Bowns also introduced the first large herds of sheep. By 1914, according to the report, sheep began to replace cattle on the range, and by 1928 sheep had largely replaced the cattle.92 The U.S. Forest Service permit system also played a significant role in pushing more woolgrowers onto the still unrestricted desert range for the entire year.93

The BLM survey also includes portions of a 1948 interview with Mr. and Mrs. George Durfey, who brought their family and sheep to Notom in 1919.94 The interviewer, Range

90 Gregory and Moore, The Kaiparowits Region, 34-35.
92 Ibid; also see Hunt, Henry Mountains Region, 20.
93 Snow, Rainbow Views, 58.
94 George Durfey was the father of Golden Durfey, who worked as a laborer at Capitol Reef in the 1960s. Golden is the father of Keith Durfey, who has worked in Capitol Reef's maintenance division and currently is the park's range technician. Both Golden and Keith, who still live part time at their Notom ranch, have been invaluable sources of information for this history. See Golden Durfey, interview with Bradford Frye, tape and transcript, 5 February 1992, Capitol Reef National Park Archives.
Conservationist Ben S. Markham, recorded the situation that existed when Durfey first arrived:

[T]he range was heavily loaded with stock. The Bowns ran seven big herds of sheep, averaging 2,500 to 3,000 head per herd. Mr. Durfee [sic] ran 600 head of cattle and he was considered a small operator. Mr. Durfee said that at that time the same vegetative types were in existence, but with much better density than at the present time. The Sandy Ranch development was started in 1904. Mrs. Durfee remembered that in 1911 the Sandy Ranch was raising alfalfa. Mr. Durfee stated that the deep wash cut in the bedrock on the north side of the Sandy Ranch on Oak Creek was there when he first went into the country....The wash on Bitter Creek Divide has cut in the last forty-five years [since the early 1900s]....He attributes the accelerated erosion that is present in much of the Henry Mountain area to overuse by grazing livestock.95

George Durfey's son, Golden, spent much of his early life herding sheep in the Henry Mountain and Waterpocket Fold country. In a 1992 interview, Golden Durfey recalled that before the Taylor Grazing Act there were numerous herds, all in competition for the same ranges.96

Contributing to the impacts on the range were the enormous sheep-shearing pens at the Durfeys' Notom Ranch and at Sandy Ranch just a few miles to the south. Golden Durfey remembered that his family's sheep shearing operation lasted for about 45 days each spring, when as many as 30,000 sheep would be shorn.97 The BLM survey reports:

From the year 1900 up to 1934 when the Taylor Grazing Act was passed, some 50,000 sheep were sheared annually at pens in Notom on the north and at Sandy Ranch. During the shearing period these sheep were allowed to graze unrestricted on the surrounding public domain. This condition, with unrestricted grazing from the ranches, depleted the range forage in the upper valley to a point where Russian thistle predominates, and sheet, gully and wind erosion is prevalent.98

While heavy, competitive sheep grazing predominated on the eastern side of the Waterpocket Fold, sheep and cattle were also roaming unrestricted in what is now the

95 "West Henry Mountain Range Survey," 11. Also see Hunt, Geology and Geography of the Henry Mountains Region, 19, 205-209 for a detailed examination of erosion east of the Waterpocket Fold to Hanksville. Hunt attributes some of the increased erosion to overgrazing but believes that the largest factor was climatic changes.
96 Golden Durfey, interview, 14.
97 Ibid., 16-17.
98 "West Henry Mountain Range Survey," 11.
northern district of Capitol Reef National Park. On the Hartnet Mesa section, between the South and Middle Deserts, another BLM survey described past use:

Prior to passage of the Taylor Grazing Act in 1934, large numbers of livestock were brought from Wayne, Sevier, and Emery Counties to winter on these lands. Many of the animals remained on the range year-long, resulting in progressive destruction of soils and vegetation. Reports from stockman [sic] in the area indicate that many trespass horses used the area until about 1955. Prior to 1946 there were at least 163 cattle and 20 horses licensed yearlong in this area.99

Guy Pace, a prominent rancher whose livestock graze on the Hartnet, believes that the majority of these large herds belonged to out-of-state operators.100

This pattern of unregulated, competitive range coupled with economic depression and drought is the same pattern found elsewhere in Utah and throughout the West led to the perceived need for federal regulation. That regulation turned out to be first the U.S. Forest Service permit system and, ultimately, the 1934 Taylor Grazing Act.

The Taylor Grazing Act's Impact On The Waterpocket Fold Country

While the onset of grazing regulations in the national forests exposed many ranchers to the allotment and permit system as early as 1905, passage of the Taylor Grazing Act in 1934 made it impossible to avoid federal supervision. The first director of grazing, Farrington Carpenter, had determined that the only successful means of enacting grazing regulations was through the hands-on cooperation of local ranchers, just as the U.S. Forest Service had concluded at the turn of the century.

At a meeting on October 22, 1934, Carpenter and his staff met with a delegation of 300 Utah cattle and sheep operators in Salt Lake City to familiarize the area ranchers with the Taylor Act's details and to gather information unique to Utah's ranges. In December, another meeting was held. This one was attended by approximately 200 livestock representatives, who met in Salt Lake to draw the boundaries for eight grazing districts in Utah.101


101 Foss, Politics and Grass, 78-83; N. Keith Roberts and B. Delworth Gardner, "Livestock and the Public Lands," Utah Historical Quarterly, 32, No. 3, (Summer 1964): 295-296. Eight grazing districts were established in 1935 the number was expanded to 11 with the addition of the Monticello office in 1939 and the Fillmore and Kanab offices in 1944.

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The area that includes Capitol Reef National Park was placed in Grazing District 5, officially established on May 7, 1935 (Fig. 34). Each district had an advisory board, elected by its permittees, responsible for setting the original carrying capacities and the first line in settling disputes. The districts were then divided into allotments with one or several common users. Community and individual allotment committees were charged with setting up their own preliminary capacities and periods of use. While it appears permits were issued almost immediately, they must not have carried much weight since permit priority was not clarified until January 1936 and the district offices were not established until a year after that.

At the January 1936 meeting in Salt Lake City, representatives from all the district advisory boards throughout the West gathered with the fledgling grazing service to decide on long-term regulations, the most important being the establishment of range fees and standards for grazing permits. Fees were initially set at five cents an Animal Unit Month (an adult and unweaned infant per month) for cattle and horses, and one cent an animal unit for sheep and goats (5 sheep = 1 AUM). Grazing permits, patterned after the forest service requirements, were to be issued according to a specific order of preference. First choice went to those with prior use (those with range claims for the previous five years) who had sufficient private or commensurate lands adjoining or close to the range in question. This decision was in line with the Taylor Grazing Act's original wording, and was also consistent with the traditional tenets of private property and prior use. Secondary permit priorities were for those with commensurate property but no prior use, followed by those with prior use but little or no property, and finally, everyone else.

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102 "Summary of Data, Grazing District 5," Folder 16, Accession 49-82-0187, Records of Cedar City District of BLM, Container 722364, Box 2, Records of the Bureau of Land Management, Record Group 49 (RG 49), National Archives - Rocky Mountain Region, Denver, Colorado (hereafter referred to as NA-Denver). A small section in the extreme northeast corner of Capitol Reef National Park began as part of Grazing District 7 but was transferred to District 5 during the 1940s.

103 Foss, 73-98, discusses the complete role of the advisory boards on a general level; also see Grazing District Advisory Board minutes and allotment descriptions and plans in Accession 49-82-0187, RG 49, NA-Denver for the early years, and the Cedar City and Richfield offices for more current years. The old advisory board system was eliminated in the 1970s and in 1994 is being re-instituted with a broader scope of participation.

Specific allotment information will not be discussed here, as many of the allotment boundaries and users have changed over the years. Allotment status pertaining to the Capitol Reef National Monument expansion in 1969 will be examined later in this document.

104 Roberts and Gardner, "Livestock and the Public Lands," 296-297; Foss, 83.

105 Foss, 83. Calculating AUM foliage has become quite complex and requires a great deal of expertise.

106 Ibid., 62, 83.
The link between property, prior use, grazing fees, and district advisory boards ensured that local, established users would carry the most weight in determining how the public domain would be used. The stabilization of the livestock industry, one of the primary motivations for the passage of the Taylor Grazing Act, was virtually guaranteed by this kind of system. It would be up to the U.S. Grazing Service and, after 1946, the Bureau of Land Management, to develop the other motivation: rehabilitation of the range.

At first, and some would say ever since, the federal officials charged with monitoring these new regulations were too few, and were too poorly funded to implement successful range conservation. Due to the lack of appropriations and manpower, the district graziers concentrated on means by which they could constructively cooperate with the local ranchers to gain their trust for the future.

The Federal Emergency Relief Administration (ERA) range improvement program was significant in showing ranchers that federal action could be positive. In its first year, the grazing service was given 60 Civilian Conservation Corps camps with approximately 12,000 workers to develop range improvements throughout the West. At that same October 1934 meeting with the ranchers and Director Carpenter, the Utah office of the ERA discussed potential improvement projects with the livestock operators. They determined that “work consisting of development of springs and seeps, construction of small reservoirs, drilling of wells, and the installation of tanks and troughs, would best serve the most pressing needs.”

Roads and stock driveways were also built with this unique federal assistance. With $200,000 of ERA money allocated to Utah one week later, advisory boards of ranchers met with the ERA engineers to determine what projects would benefit the most people. In Garfield and Wayne Counties alone, 37 springs were improved for livestock use, four wells dug, four stock reservoirs built, and five trails either constructed or improved. While it is hard to determine if any of these range improvements is within Capitol Reef National Park, the names of these projects (which often reference local landmarks) suggest that at least a half dozen of these federal relief range improvement projects were completed within what is now the park boundary.

Another early focus of federal management of the Waterpocket Fold country was eliminating some of the competition between sheep and cattle on the desert winter ranges. In 1935, competing Wayne County sheep owners and Garfield County cattle ranchers went to a U.S. Grazing Service hearings officer in Richfield to plead their cases. The sheep owners said they needed at least one month of winter grazing in the Circle Cliffs as

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108 Ibid., 4.

109 Ibid., 12, 16. These numbers were taken from a list of projects and their costs for each county in Utah. There is also a map of District 5 but, unfortunately, only a very few of the range improvement projects are indicated there.
part of their annual herding cycle. The cattle owners, who lived in the Boulder area close
to the Circle Cliffs range, complained that the sheep grazing had destroyed their
traditional, and now federally approved, range. During the course of testimony, Boulder
rancher John King emphasized the adverse vegetation change resulting from this
competition between cattle and sheep:

[All that’s left is] a little shadscale, sagebrush, about all killed. No grass at
all to amount to anything, only way on the ridge farthest away from water.
But along the head of Horse Canyon or in the Flats there is some sagebrush
there but it is pretty well killed. All the [Brigham] Tea is killed out there.
Not much grass or browse. Spots of shadscale and sagebrush.¹¹⁰

The hearings officer concluded in favor the Boulder cattlemen, principally because they
had prior use and could demonstrate closer commensurate property. Specific cattle and
sheep allotment lines were drawn that effectively eliminated the Wayne County sheep
herds from legally venturing onto the Circle Cliffs. Anne Snow observed that this
curtailment of the range, coupled with cuts in the national forest sheep permits, drove
some sheep owners out of business and caused others to switch over to cattle.¹¹¹

Increased regulation, a lack of herders, and predators were the main reasons why sheep
numbers steadily declined after the Taylor Grazing Act. The impacts of uncontrolled,
year-long competition between sheep and cows throughout the late 19th century and into
the 1930s is still evident on much of the grazed land along the Waterpocket Fold,
including much of Capitol Reef National Park. Later attempts to rehabilitate the land by
the Bureau of Land Management will be examined below.

Early Relationship Between Ranchers And Federal Land Managers

As mentioned earlier, the beginning of the forest permit system had exposed some tensions
between traditional users and new federal attempts to regulate resources. The Great
Depression and war years of the 1930s and 1940s created further hardships, as well as
determined resistance, from some ranchers opposing further U.S. Forest Service controls.

Livestock were being killed to keep them off the market in the early New
Deal Days. Stockmen continued to hold their numbers up, hoping for
better times. They fought reductions in number with all of their
organizational ability. A group of stockmen at Escalante and another at St.
George were especially strong in their opposition to further reduction in
number....Forest officers knew what was happening but found opposition

¹¹⁰ John King, testimony, 1938 Richfield Grazing Hearing, Folder 17, 49-82-0187, Container
#722364, Box 2, RG 49, NA-Denver, 21-22; also see LeFevre, 250, and Griffin, 12.

¹¹¹ Snow, ed., Rainbow Views, 58-59. Golden Durfey, interview, 19, observes that the inability to
get sheep herders after the war was a major factor in the decline of sheep.

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to change solidly entrenched against them. Meetings were continually held with stock associations, some lasting until 2 to 3 A.M. before either side would concede a point. There was extreme feeling between stockmen and Forest Service during this period and many reductions were forced through regardless of feelings. In most cases these reductions were even yet too small to solve the overgrazing problems and the ranges continued to decline. Many petitions were drawn up by the associations to get forest officers removed during the 1930s and 1940s. The Escalante livestock association petitioned against nearly every ranger they had over a period of 20 years. These efforts by stockmen though sometimes successful did not change the policy of the forest service to get the facts and proceed to instigate reductions on the basis of factual information.\(^\text{112}\)

This kind of resistance to federal grazing policy was by no means universal. Many of the ranchers felt that both the forest service and grazing service regulations were needed, so long as their traditional rights and usage were respected. Golden Durfey, for instance, was mostly positive when asked his opinion of the Taylor Grazing Act and later BLM policies:

> Well, we've got it and we've got to live with it and we do. And we have some people, some heads of it that are good and some that are bad. But it's better than it used to be. And then we're better too. We've learned to live with it. You know. They've learned to live with us and we've learned to live with them.\(^\text{113}\)

Rancher Guy Pace concurred:

> The Taylor Grazing Act was, I think, very necessary. What it did, it put people, it controlled where they were. Particularly sheep operators. See, those sheep used to go on the Henry Mountains and they just run wild. The people that owned the sheep was trying to feed the whole country in front of someone else. And the Taylor Grazing Act set up allotments [mostly for] cattle. And what they tried to do, is if you ran so many cattle in a certain area, that's where you stayed.\(^\text{114}\)

Thus, by the middle to late 1930s, federal grazing regulations were in place on the remaining public domain. While there was certain resistance to federal regulation, especially when it meant herd reductions, the overall opinion was that the Taylor Grazing Act and U.S. Grazing Service policies stabilized the Western livestock industry. Whether it stopped damage to the fragile Western landscape is still being debated.

Ranchers and the federal grazing control agencies, each with different experiences and time-honored beliefs, attempted to find a middle ground in order to avoid conflict. Lack

\(^{112}\) "History of Areas Known as the Dixie National Forest from 1902 to 1960," 10-11.

\(^{113}\) Golden Durfey, interview, 22-23.

\(^{114}\) Guy Pace, interview with Bradford Frye, 13 February 1991, 23.
of money and understanding, rancher resistance, and the threat of congressional investigation prevented the federal agencies from instituting range controls as soon as they would have liked. On the other hand, cultural, religious, and traditional ranching values were difficult for the southern Utah livestock operator to put aside.

During the 1930s, the unquestioned belief, the paradigm, was that public domain throughout the American West was to be used for grazing, mining, or timber. Public lands, therefore, were placed under the control of these interests, provided they followed the specified controlling federal land managers' policies. The practice of setting these lands aside for recreation was still decades away.

In the meantime, there was a growing feeling among local tourism boosters that at least some of the canyon country of southern Utah should be brought into the national park system. The prospect of another, even stricter, federal agency entering the land control arena was more than some ranchers were willing to accept. If the relationship between the USFS or BLM and the ranchers was tense, imagine the reactions toward a new federal agency whose mission included the elimination of grazing from traditional grazing lands.

**Grazing During The Early Years Of Capitol Reef National Monument**

**General National Park Service Policy: 1916 To 1934**

While it is often assumed that grazing is not allowed in national parks and monuments, this is not the case. According to the 1916 National Park Service Origins Act,

> the Secretary of the Interior may, under such rules and regulations and on such terms as he may prescribe, grant the privilege to graze live stock within any national park, monument, or reservation herein referred to when in his judgment such use is not detrimental to the primary purpose for which such park, monument, or reservation was created.\(^{115}\)

Because of this clause in the enabling legislation of the National Park Service, and because of traditional grazing in areas later added to the national park system, many of the older Western parks and monuments continued to allow grazing. Some parks gradually phased out grazing, while others actually increased livestock usage, particularly during the livestock range expansion of World War I.\(^{116}\) For example, to the question of whether grazing would be allowed in an expanded Sequoia National Park in 1918, Acting National Park Service Director Alexander Volgelsang responded:


We are unable to see how the transfer of any of the lands covered by these measures from the forest service to the National Park Service will in any way affect the grazing problem, as there never has been any thought of prohibiting the utilization of the grazing areas in this region during the existing emergency or even after the war is over.\textsuperscript{117}

By the 1930s, however, the growth of the national park system into previously grazed areas created increasing conflicts with ranchers. In southern Utah, this was clearly evident with the ranchers' resistance to the National Park Service proposal to include a large part of the Colorado Plateau in an Escalante National Monument. As a direct result of these negative reactions by livestock interests, when Capitol Reef National Monument was created on August 2, 1937, the boundaries were consciously created to eliminate as many grazing permits and as much grazing potential as possible.\textsuperscript{118}

\textit{Establishing A Grazing Policy At Capitol Reef National Monument}

After Capitol Reef National Monument was established, National Park Service officials would find themselves forced to deal with periodic grazing concerns, even though it was believed that "gradual, even immediate, elimination of this range stock should not present a critical problem."\textsuperscript{119} While the number of livestock and acreage of area grazed were relatively small, the economic dependence and traditional lifestyles of the isolated local communities, as well as previous and perpetual impacts on the natural ecosystems, dictated that grazing would forever be a concern for managers of Capitol Reef.

From the outset, even the presidential proclamation that established this small, 37,000-acre monument in the northern, spectacular section of the Waterpocket Fold specifically addressed the movement of cattle across monument lands. It states, "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 the driveways to be specially designated by said Secretary."\textsuperscript{120}

This wording was inserted into the proclamation "to meet the needs of local stock growers in the movement of livestock." According to Acting Secretary of Interior Charles West, this phrasing was needed to protect ranching interests, as he had already signed departmental orders excluding the land within the monument boundaries from Grazing

\textsuperscript{117} Vogelsang to California State Forester G. M. Homans, 14 June 1918, File 12-0, Box 1971, RG 48, NA.

\textsuperscript{118} See Chapter 8 for a detailed examination of the role grazing interests played in defeating the Escalante National Monument proposal and limiting the size of Capitol Reef National Monument.

\textsuperscript{119} Preston Patraw, "Proposed Wayne Wonderland (Capitol Reef) National Monument," August 1935, Box 1, Folder 2, Capitol Reef National Park Archives, 4.

\textsuperscript{120} Presidential Proclamation, "Establishment of Capitol Reef National Monument," Proclamation 2246, Federal Register, 2, No. 151, 2 August 1937, 137.
District 5 and revoking the grazing service's stock driveway withdrawal, which covered 3,480 acres now within the national monument.\footnote{Acting Secretary of Interior Charles West to President Franklin Roosevelt, 26 July 1937, National Park Service 1937-1938, OF 928, Box 1, Franklin Roosevelt Library, Hyde Park, New York.}

The lack of an on-site custodian at Capitol Reef until 1944, however, and the National Park Service's emphasis on development of roads and the Fruita headquarters area would significantly control grazing within the new monument. The rugged canyon labyrinths, physical isolation, private lands, lack of fencing, and a slowly evolving grazing service staff certainly did not help. In the face of these limitations, National Park Service officials tended to respond to grazing conflicts with policies that were neither enforceable nor even made known to the livestock owners.

From the beginning, grazing was never adequately addressed. Only a week after the presidential proclamation, Zion National Park Superintendent Preston Patraw, who was given jurisdiction over Capitol Reef, wrote Regional Director Frank Kittredge concerning "the more important projects" at the new monument. Patraw saw establishment of stock driveways and control of trespass grazing as priorities. Of the seven projects listed, stock driveways were number one. Patraw wrote, "All the various drainage canyons cutting through the Waterpocket Fold are used as driveways. Under agreement executed with stockmen, this may be limited to one driveway when properly developed. Development of a stock driveway will protect the other canyons."\footnote{Patraw to Kittredge, 12 August 1937, File 201, 79-60A-354, Box 1, Records of the National Park Service (RG 79), NA-Denver. This is the same Patraw who, in 1935, believed that grazing was insignificant.}

Patraw also believed that "grazing may be eliminated immediately over much of the monument if exclusion fences on the boundary and drift fences can be constructed now....For adequate protection of monument lands from grazing and other unauthorized operations...a permanent ranger resident in the monument is needed, and of course a ranger station is required."\footnote{Ibid.}

Thus, it appeared that grazing issues would be addressed from the beginning. In Regional Director Kittredge's response, however, grazing was completely ignored in favor of issues that had a greater consensus: long range planning and development of roads and other public accommodations.\footnote{Kittredge to Patraw, 28 September 1937, Ibid.} The regional director put grazing policy on the back burner. In fact, all of Capitol Reef National Monument was given low priority: it did not even receive a volunteer custodian until 1944, and was not officially "activated" and given a separate, yearly budget until 1950.\footnote{See Chapter 5 for details of Capitol Reef National Monument from 1937 to 1950.}
Two years later came what appears to be the first attempt to get specific information on grazing within the monument. Zion National Park Assistant Superintendent John M. Davis contacted Rulen Meeks, a prominent local rancher from Bicknell and member of the local grazing advisory board. According to Davis, Meeks told him that there were seven permittees with approximately 215 head of cattle, 300 sheep, and 20 horses, which grazed lands "not confined entirely in the Monument but include land outside as well." 126

Although the information, as detailed by Davis, is not specific to allotment, it appears that Will, Dez, and Joe Hickman's 85 cattle had the southern half of the Meeks Mesa Allotment. James Pace's 300 sheep and Walter Smith's 35 cattle were assigned either to the Meeks Mesa or Torrey Town Allotment, and Clarence Mulford's 60 cattle and 20 horses were in the Fruita Allotment, which included his own private lands. In addition, George Clark held a permit to graze 35 cattle throughout the winter in Capitol Gorge, within monument boundaries. 127

Davis also mentioned the traditional stock driveways used in the monument:

- Grand Wash is used as a stock driveway only by the Meeks brothers.
- Capitol Wash and Pleasant Creek are generally used by all livestock owners. Pleasant Creek is used the most because of the pressure of poisonous weeds in Capitol Wash. ... Stock using driveways through the Monument are supposed to make at least five miles a day. 128

As part of the same study, Davis wrote a memorandum to his superintendent on May 1, 1939, detailing the lack of information pertaining to grazing within the monument:

- The Capitol Reef [file] has been searched and nothing can be found on the minutes of any meeting where grazing was discussed or decided upon. These files were also searched for instructions from our Washington Office on the handling of grazing in the Monument. In all correspondence there is very little said about grazing and apparently this problem was not given much consideration or considered an important factor in the establishment of the monument. 129

Even though Davis did not find anything in the Zion files, a thorough examination of the investigations and correspondence relating to a potential Capitol Reef National Monument makes it clear that opposition from grazing interests actually played a significant role in the eventual size and status of the area. 130 This opposition, or the threat of it, may have

126 Davis to Superintendent Paul Franke, 19 April 1939, File L3019b, 79-66A-691, Box 1, RG 79, NA-Denver.
127 Ibid.
128 Ibid.
129 Davis to Franke, 1 May 1939, Ibid.
130 See Chapter 8.
been one reason why so little had been done about the issue since it had first been raised by Patraw two years earlier. Even with this admitted lack of information about grazing within Capitol Reef, Assistant Superintendent Davis was willing to predict that all grazing could be phased out "with very little opposition" and that the number of stock driveways could be reduced to one "without much inconvenience to stock owners." 131

Davis's conclusions were reached without taking into account the need for expensive fencing to enforce a grazing phaseout, the large amount of private land on which stock was free to roam, and the extra time and adverse impact on resources or ranchers. This failure to recognize existing conditions and local attitudes when determining grazing policy would plague Capitol Reef managers for many years to come.

The Scientists Arrive

A chance to gain more information came with the visits of the first scientific surveys of the new monument in the fall of 1939 and the spring of 1940. National Park Service Field Naturalist Joseph Dixon was the first to visit the area in October 1939. His "Special Report on Geology, Flora and Fauna" deals little with the natural resources, concentrating more on the Civilian Conservation Corps-constructed trail up to Hickman Natural Bridge just outside Fruita. His listing of flora and fauna are cursory at best, and he never mentions any part of the monument outside of Fruita and the Fremont River canyon. Nor does he mention any plant life other than trees. In his recommendations, Dixon urges further study of the cultural and natural resources, but never mentions grazing or its impacts. In short, his report is of little value in assessing the state of natural resources at Capitol Reef. 132

The following May, Regional Biologist W. B. McDougall spent two days in the monument assessing its vegetative cover. Unfortunately, only the first day was spent in observation, and even then only along the road corridor. The next day it started raining, so he thought it best to leave while the road was still passable. During this all too brief visit, McDougall attempted to itemize the typical vegetation and the impacts of grazing. 133

According to the biologist, the vegetation consisted of widely spaced pinyon and juniper trees with scattered serviceberry, cliff rose, Mormon tea, squaw bush, silver buffaloberry, "and in some places, where it has not been eaten by cattle or sheep,...some grass." McDougall further observed:

Cattle overrun the Monument everywhere to the number of about 200 head or more. So far as I know, no permits are issued but it wouldn't make any difference anyway under present conditions because there is no resident

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131 Davis to Franke, 1 May 1939.
custodian to look after the area. If all domestic animals could be removed from the area, it probably would support a herd of 200 or more deer....[T]his area represents a certain biological type and it is hoped that the time will come when it can be administered in such a way as to represent this type normally. Primarily, of course, it is a geological monument but it is large enough to be biologically significant if it could be properly protected.\textsuperscript{134}

McDougall's account of the overgrazing at first seems like overwhelming evidence of the damage livestock was having on the entire monument. Unfortunately, McDougall hiked only near the road, which was one of the traditional stock driveways through the area and, thus, the most severely impacted area of the monument. May is also the month when the cows and their calves are waiting to be moved to the mountains for the summer. Therefore, McDougall's findings are neither complete nor valid.

\textit{Capitol Reef's Grazing Policy Takes Shape}

As part of an overall review of grazing in the National Park Service in 1941, Zion Superintendent Paul Franke was asked to contribute information on Capitol Reef National Monument, since there was no mention of it in the Washington files.\textsuperscript{135} Franke's response generated the first known grazing policy for Capitol Reef National Monument.

Franke first determined from District Grazier D. S. Moffitt in Richfield, Utah that (except for stock driveway use) no permits had been issued for any lands within the monument for the past year. However, he reported, "No doubt there is some unauthorized grazing by local stockmen and residents of the village of Fruita. Such grazing can not be brought under control until the monument boundary is fenced and protection personnel provided to enforce regulations in this area."\textsuperscript{136}

Concerning the stock driveways, Franke's search of the files showed that no one canyon had yet been specified for such use. However, he wrote, "As soon as time permits a study of this use will be made and recommendations submitted for consideration in the designation of driveways by the Secretary of the Interior." Apparently, this study was never completed, as driveways were never specifically designated by the secretary. This meant that the traditional trails would be used as before.\textsuperscript{137}

In the accompanying charts and grazing policy statements, the specific grazing impacts on monument lands were detailed. It was estimated that the stock driveways saw up to 1,000 head of cattle for about four days a year. Within the monument there were also 115 cattle

\textsuperscript{134} Ibid.  
\textsuperscript{135} Victor Cahalane, Department of Interior, Section on National Park Wildlife, to Franke, 2 June 1941, File L3019b, 79-66A-691, RG 79, NA-Denver.  
\textsuperscript{136} Franke to National Park Service Director, 1 July 1941, Ibid.  
\textsuperscript{137} Ibid.
and 30 horses that grazed 918 acres of private land, and 200 cattle on 2,474 acres of state or county land from two to three months a year. The amount of land "overgrazed by trespass stock due to lack of fence and other controls" was estimated at 300 cattle over 6,760 acres of land for the three winter months. The remaining 24,542 acres, or 67 percent of monument lands, were considered too barren or inaccessible to grazing. The carrying capacity was determined to be 255 cows per month for the entire monument, or 40 acres per cow.\textsuperscript{138}

The grazing policy statement, presumably written in 1941, ruled out the grazing of additional livestock on monument lands. This was justified by the already overgrazed condition of some park areas, and the lack of personnel to monitor livestock. The statement declared, "The Monument being already in a badly overgrazed condition, the placing of more livestock in the area cannot fail to seriously aggravate the existing undesirable conditions and would promote erosion of a damaging nature."

\textsuperscript{139}

The policy statement also established that "stock grazed in Capitol Reef are legally on trespass as no permits have been issued to graze."\textsuperscript{140}

While this policy statement makes it clear that grazing was not permitted within monument boundaries except through the limited use of stock driveways, the lack of enforcement meant that some ranchers would continue to use their traditional winter grazing areas.

\textbf{Grazing Issues And Conflicts At Capitol Reef: 1948-1957}

In August 1948, 11 years after the monument's creation, Capitol Reef Custodian Charles Kelly discovered a well-used, recent cattle trail to the rocky mesas between Grand Wash and Capitol Gorge. Kelly inquired among the local ranchers as to whose cows were in the monument, and learned that George Clark of Torrey held a grazing permit for the area.\textsuperscript{141}

This is, presumably, the same George Clark who had a winter permit for 35 cows for the Capitol Gorge area in 1939.

Zion Superintendent Charles Smith wrote a letter directly to Clark informing him that grazing was not legal in the national monument and requesting that he get his permit revised by the Bureau of Land Management.\textsuperscript{142} Since there is no record of correspondence between Smith or Kelly and the BLM on this matter, it is hard to

\textsuperscript{138} Ibid.

\textsuperscript{139} Ibid.

\textsuperscript{140} Ibid. While few of the master plans and development outlines for the 1940s mention grazing, the ones in 1946 and 1949 reiterate the same figures and policy statement.

\textsuperscript{141} Kelly to Zion Superintendent Charles Smith, 15 August 1948, File L3019b, 79-66A-691, RG 79, NA-Denver.

\textsuperscript{142} Smith to George Clark, 8 September 1948, Ibid.

299
determine why Clark was able to continue grazing within the monument for so long. Presumably, either Clark continued using his traditional winter range within the national monument without knowledge of or care about its no-grazing policy, or he had a 10-year permit for the area that was only then coming due.

While George Clark soon removed his cattle without complaint, this action stimulated the concerns of other local ranchers as to how they would be compensated for their grazing privileges in the Meeks Mesa, Torrey Town, or Fruita Allotments lands within the monument. Charles Kelly wrote:

They think that if they are excluded from the monument, the grazing service should give them some other grazing area; or if that can't be done, the park service should compensate them for the loss of their rights. To date they have made annual payments for these rights. The fact is they did not know just where the boundaries were, and believed they were on public domain....Actually, the cattle who wander into the monument do no particular damage, since there is almost no vegetation in that section. However, if this place is ever fenced, the matter will have to be adjusted. The cattlemen have believed they were within their rights, and I did not know until this week that they had grazing rights within the monument boundaries.143

This notice from Kelly elicited a detailed response from Superintendent Smith. Smith reiterated the old assumption that the range within Capitol Reef National Monument was of such little value that it had previously been considered unimportant.144

Smith went on to clarify National Park Service policy toward the use of stock driveways, the ranchers' permits, and the manner in which future trespass should be handled. According to Smith, several visits of national park officials in the late 1930s and consultations with the local grazing board had determined that the monument would allow livestock drives over the Fremont, Grand Wash, Capitol Wash, and Pleasant Creek gorges. The drives were to be expeditious and were not to take more than one day through the monument.145

As to the ranchers' belief that their permits covered lands within the monument, Smith recited the 1941 statement by the district grazier that no permits had been issued for the monument; thus, "[t]his makes it very definite that there are no grazing rights on government lands within the area."146 One fact Superintendent Smith failed to mention was that just prior to the presidential proclamation back in August 1937, the secretary had ordered all monument lands excluded from the grazing district. Thus, even if the U.S.

143 Kelly to Zion Assistant Superintendent Chester Thomas, 21 November 1949, Ibid.
144 Smith to Kelly, 12 December 1949, Ibid.
145 Ibid.
146 Ibid.
Grazing Service, and later BLM, had issued permits, they should have been no longer valid. Smith also advised Kelly to tell the individual livestock owners that it was their responsibility to get permits adjusted, although the National Park Service would assist with clarifications. There is also no mention of compensation in those cases where the number of permitted livestock was reduced.

Smith realized, though, that with a total lack of fencing and boundary markers, a certain amount of trespass grazing was not only inevitable, but tolerable. He wrote:

> We have no doubt that trespass grazing is quite common, unintentional or otherwise. We are not going to shut our eyes to flagrant trespass nor are we going to demand that the livestock men ride daily herd on their stock. We expect them to be reasonable and to show some respect for the regulations. If they do this, and do not take advantage of our attitude we will tolerate minor trespass....When physical improvements are made and other development take place the stock will be excluded entirely and the owner will have to see that they do keep out. Any tolerance we display now cannot be used as a basis for assuming that a privilege exists.  

In other words, while grazing was not permitted within the monument, there was little the National Park Service could do at that time to prevent all but the most flagrant cases of trespass. Thus, by the end of Capitol Reef's first decade, there was a semblance of a grazing policy, but it was vague and still unenforceable. As long as this was the case, the local ranchers would continue to graze their traditional ranges.

Toward the end of 1950, soil and conservation officials arrived to assess the potential for a comprehensive plan for Capitol Reef. As part of the initial soil survey, the impacts of grazing were noticed, as was the fact that severe drought had caused winter grazing in the immediate area to be curtailed for the last several years. It was anticipated, however, that livestock would soon be returned to area. Soil conservationists warned that if stock were allowed to continue trespass and unmonitored use during stock drives, there would be little point in beginning an extensive erosion control program. The soil conservationist also mentioned that the grass types found in the monument included the dominant galleta, with lesser amounts of alkali sacaton, blue gamma, sand dropseed, and salt grass. It is not known exactly where these grasses were found or how extensive was the survey.

By the mid-1950s, it seems that grazing conflicts at Capitol Reef National Monument had worked themselves out. So long as the ranchers were willing to control stock trespass as

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147 Ibid.

148 W. G. Barnes, Acting Chief of Planning and Construction, to Regional Director, 27 March 1950, File 700, Part II, Accession 79-60A-354, Container 63181, Box 3, RG 79, NA-Denver; Paul Balch, Soil Conservationist to Regional Engineer, 11 September 1950, File 732, Ibid.

149 Balch to Regional Engineer. For a more complete listing of vegetation in 1953 see the "1953 Master Plan and Development Outline," File D18, Forestry Section, 79-67A-337, Container 919498, Box 1, RG 79, NA-Denver.
best they could, nothing was said by the Capitol Reef’s new superintendent, Charles Kelly. In the 1953 Capitol Reef National Monument Master Plan, Kelly mentioned continued trespass problems, but expressed more frustration with the manner in which cattle were driven through the monument. He complained, “The monument is unfenced, and stray stock drift into it occasionally. However, the vegetation is so sparse that little damage results. Unfortunately, there is no designated stock driveway, and herds of cattle pass through without supervision, usually bedding two nights on the monument.”

One year later, however, Charles Kelly lost his patience with wandering stock. The incident apparently began when one of the private landowners inside the monument, Cass Mulford, refused to keep his cows and horses from crossing onto the monument. Kelly was particularly irate because the cows were grazing in the campground, at that time located on Sulphur Creek north of the present visitor center. According to Kelly, two other ranchers decided that if Mulford could get away with trespass, they might as well let their cows onto the monument lands, too. Kelly notified the regional office in Santa Fe of the problem and recommended that his superiors send him a "rather strong order" to remove the cows. But the superintendent also warned this may not work, and desired to know what other course of action he should take. Kelly also consulted the Richfield office of the Bureau of Land Management to see how they handled livestock trespass cases.

This memorandum sparked a flurry of correspondence between Kelly and the regional office over how to handle grazing trespass. The regional office requested more information, researched applicable fence and impoundment laws, and asked Kelly to write down as many specific details as possible. Kelly was told that, if necessary, the sheriff should be called in to impound the offending animals. Assistant Regional Director Hugh Miller also warned Kelly to proceed cautiously, since this would be “bad public relations if it is necessary to go the whole way.” He asked, “Is the total damage, plus nuisance, worth it?”

Kelly responded that the sheriff, being one of the local Mormons, would probably not cooperate, and "[t]he county attorney would do so only reluctantly." Superintendent Kelly's solution was to build a drift fence across Sulphur Creek just west of the ranger station to prevent more strays entering the campground. He also suggested that the regional office issue Kelly an order to keep the monument free of cattle.

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151 Kelly to Regional Director, 4 May 1954, Sydney Whetstone, Range Manager, BLM to Kelly, 7 July 1954, File L3019a, 79-66A-691, RG 79, NA-Denver. At this time Capitol Reef National Monument was under direct regional jurisdiction.

152 Assistant Regional Director to Kelly, 7 June, 28 July, 1954, Ibid.
“I can then show this order to the offenders,” Kelly wrote, “and it will have more weight than if I issued it here. They will not be so apt to hold it against me personally when the rule is enforced.” 153

As for public opinion, he complained:

I realize that the natives here will not be happy, but they have ceased to cooperate and after ten years it is time to let them know that this is actually a national monument. We also have to consider relations with the traveling public. Last summer a locoed cow walked through the tent of a camper in the night, and the resulting publicity was certainly not complimentary to the park service. When campers are kept awake all night by prowling stock, and their camps are messed with fresh manure, they ask me whether Capitol Reef is a national monument or merely a cow pasture. 154

Eventually, the requested order from Regional Director Minor R. Tillotson arrived. Kelly then notified all local livestock owners that he had been directed to do whatever it took to keep stock off the monument. If trespass continued, Kelly warned, he would “be forced to resort to legal procedures to correct the situation.” 155

Kelly also informed the ranchers that no trailing or bedding of livestock would be permitted in the campground area, and that Utah Highway 24 would continue to serve as the designated stock driveway. There is no documentation available that elaborates on exactly when this decision had been made, or by whom. This is especially puzzling since only a year before, in the 1953 master plan, Kelly stated that there was no one designated stock driveway through the monument. 156

This order seems to have satisfied both the ranchers in question and Superintendent Kelly for the time, as there is no more reference to the matter. After this episode, grazing once again resumed its place on the back burner, only to flare up again in 1957.

Kelly's nearest neighbors, Merin and Cora Smith, had a few cows that would apparently wander onto National Monument property from time to time. In June 1957, Kelly discovered that these cows had eaten much of his flower garden and "ruined" his vegetable garden and younger fruit trees. According to Kelly, he confronted Merin Smith and told him that he "would not any longer stand his pasturing his cattle in [Kelly’s] yard." Smith, recorded Kelly, responded irately that his cows were there long before Kelly and that "he ha[d] always pastured his cattle on the government property (true) and still intend[ed] to do so" [parenthetical notes are Kelly's]. The Smiths then told the superintendent to remove

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153 Kelly to Regional Director, 3 August 1954, Ibid.
154 Ibid.
155 Tillotson to Kelly, 9 August 1954, Kelly to "the Stockmen of Wayne County," 18 August 1954, Ibid.
156 Kelly to Stockmen.
the National Park Service picnic tables from around the Fruita schoolhouse, which was on their property.\footnote{157}

Charles Kelly may not have been the best man to handle an issue as sensitive as livestock trespass on National Park Service lands. Nevertheless, these examples do point out that if grazing policy is not clear, well known, and enforceable, then there is significant potential for conflict.

Nevertheless, the tiny monument’s grazing problems paled in comparison to those of other national parks and monuments. Excluding eastern parks where livestock pasturage occurred and the more multiple-use-oriented national recreation areas, the 1957 totals for grazing within the national park system included 112 permittees. These permittees had approximately 10,000 head of cattle, 860 horses, and 15,000 sheep and goats. These accounted for 88,591 AUMs permitted on National Park Service lands. The largest AUMs were concentrated in Utah's Dinosaur National Monument, with 17,000 (mostly sheep); Grand Teton National Park, with 11,600 (cattle); Grand Canyon National Monument, with 15,000 (Navajo sheep); and Organ Pipe National Monument, with 13,000 (cattle).\footnote{158}

At Capitol Reef National Monument, grazing concerns lessened as Mission 66 development money was used to fence portions of the monument boundary, and special use permits were issued to regulate the monument’s stock driveways.\footnote{159}

While Capitol Reef’s grazing problems appear relatively minor throughout the first three decades of monument’s history, this would suddenly change when another presidential proclamation in 1969 increased its size by 600 percent. This new monument land consisted of public domain within and surrounding the rest of the magnificent Waterpocket Fold, principally used for winter grazing range. Before discussing the implications this expansion, it is important to touch briefly on USFS and BLM range management of the public domain that would soon be added to the national park system.

\footnote{157} Kelly to Zion Superintendent, 9 June 1957, Ibid. Capitol Reef National Monument was once again under Zion National Park’s jurisdiction.

\footnote{158} Summary of Use by Domestic Animals under Permit in the Areas Administered by the National Park Service, Calendar Year 1957, File L3019, 79-67A-337, Box 1, RG 79, NA-Denver.

\footnote{159} See Chapter 7 for details on Mission 66 program that significantly changed Capitol Reef National Monument. Boundary fence was constructed during 1963, according to Superintendent's Monthly Narrative Reports, 1962-3, Box 4, Folder 5, Capitol Reef National Park Archives. In November 1962, Superintendent Krueger issued 33 special-use permits to trail 2,364 cattle and 2,498 sheep through the monument. In June, 1963, Krueger reported that of the 33 previous permittees, 14 were trailing and 19 were using trucks to haul their livestock "on a trial basis." Trucking would later become the preferred method of transporting livestock from range to range. The special-use permits are found in the superintendent’s grazing files, Capitol Reef National Park.
Grazing On Public Lands Later Added To Capitol Reef: 1950 To 1969

The uneasy relationship among the federal land management agencies and south-central Utah ranchers continued throughout the 1940s, '50s, and '60s. During this time, more scientific range surveys were completed for much of the land, and carrying capacities were established. Virtually every one of the new agency limits was less than the old limits set when ranchers had determined the carrying capacity in the 1930s. This required the Bureau of Land Management and the U.S. Forest Service to request reductions, which were often fought by the traditional users of the land. Through the advisory boards and the hearing process, the ranchers' grievances were heard, and sometimes compromises were made. Throughout the process, however, the range continued to be utilized at its highest limits.160

Range improvement programs provided one avenue of cooperation between federal land management agencies and the area ranchers. The BLM and USFS used a portion of each year's grazing fees to help ranchers build or improve stock ponds, trails, and fencing, and to reseed some of the more damaged ranges.

Summer Range: The National Forest Lands

By 1950, the Dixie National Forest, which included the Boulder Mountain area directly west and southwest of Capitol Reef National Monument, had been regulating grazing through permits and advisory boards for well over 40 years. While some gains had been made in terms of the range and federal-local cooperation, a history of the national forest indicates that there was still a long way to go:

Reseeding areas though greatly inadequate had tended to relieve pressures in some areas. Transfer reductions, exchanges, association purchases with cancellations and outright reductions had gone a long way toward easing the pressures and improving the relationships of stockmen and Forest Service on the Dixie ranges....The national [sic] Cattle Association had adopted a policy of cooperation. The National Woolgrowers, however, were still fighting for range rights instead of privileges along with other special considerations...1956 found the Dixie in a strong position to hold the gains that had been made and with emphasis on watershed, wildlife, recreation, reseeding, and farm pasture[,] further inroads into livestock numbers on overgrazed ranges may be effected.161

160 The best way to examine the interaction among the U.S. Forest Service, Bureau of Land Management, and livestock owners is to read the minutes of the advisory board meetings. These are located in the Richfield, Cedar City, and Loa area offices of the two agencies.

These livestock reductions occurred over many years. Ultimately, cattle, horse, and sheep grazing on the East Slope Allotment on Boulder Mountain was reduced from a total of 30,425 AUMs in 1920 to only 12,223 AUMs in 1959. The period of use had also been reduced. Cattle and sheep were now kept off the allotment until either May or June 1, whereas the 1920 permits allowed stock to graze as early as the middle of March.\(^\text{162}\)

By 1959, forest service officials determined that the range was still "overstocked and the range to be in a depleted condition." A year later, an agreement was signed by the permittees on the east slope of Boulder Mountain to reduce their stock by another 35 percent over the next two years. By 1965 the last of the sheep permits had been converted to cattle, meaning even less competition. While some of the stock were later allowed back onto the range by the mid-1970s, these significant reduction numbers prove that the U.S. Forest Service was gaining control over range depletion.\(^\text{163}\)

The method of grazing, however, had not changed since the turn of the century. Livestock were traditionally turned loose in the spring to "let them follow grass greenup to the Top, then be pushed off by fall or winter storms." Attempts by forest officials to establish a more regulated pattern were hampered by rough terrain and lack of fencing. Thus, while the number of livestock on Boulder Mountain had been significantly reduced by the end of the 1960s, the cattle were still allowed to roam the ranges far more freely than the U.S. Forest Service would have preferred.\(^\text{164}\)

To the northwest of Capitol Reef National Monument, the large expanse of Thousand Lake Mountain is largely within the boundaries of Fishlake National Forest. The Sulphur Cattle and Horse Allotment bordered the monument from 1937 to 1969. This allotment included portions of Meeks Mesa, Spring Canyon, and Paradise Flats, which were later added to the monument through expansion in 1969. The eastern portion of the Polk Creek Allotment was included within the final national park boundaries in 1971.\(^\text{165}\)

Throughout the 1940s and 1950s, there were consistent attempts by forest rangers to control livestock numbers and seasonal use on these allotments, especially during drought years. Unfortunately, there is no detailed grazing history available for this area. Yet, the number of U.S. Forest Service requests for reductions in livestock numbers or days of use, as well as some of the statements made at the advisory board meetings, indicates that Fishlake National Forest officials were just as active as their counterparts in the Dixie National Forest.\(^\text{166}\)

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\(^{163}\) Ibid.

\(^{164}\) Ibid., Appendix B, 19.

\(^{165}\) Allotment field maps obtained from Fishlake National Forest, Loa District Office, Loa, Utah.

\(^{166}\) See various correspondence and advisory board meeting minutes in File G, "Cooperation," Fishlake National Forest, Loa District Office, Loa, Utah.
Year-Round Range: The Baker Ranch

In the south end of the Waterpocket Fold, under the present high-water mark of Lake Powell, a cattle ranch established at the turn of the century impacted livestock operations in the area until the mid-1980s. Eight hundred Desert Homestead acres were first deeded to Thomas Smith, his wife, and their daughter-in-law sometime around 1910, and then were sold to Eugene Baker and sons in 1919. The Bakers doubled the base ranch and built all the out-buildings necessary to run a year-round, virtually self-sufficient ranch. After all, the Baker Ranch was located 80 miles by horse trail from Escalante, the closest real community from which goods could be purchased. It had an orchard and grape vines, and diverted water to cultivate 60-80 acres of alfalfa and corn. Most importantly, the Bakers ran 800 to 1,000 cattle and about 40 horses on a range “bordered in a rough triangle by the Henry Mountains on the north, the Colorado River on the east, and Waterpocket Fold on the south and west.” This area is estimated to be about 25x35x40 miles.167

During the 1920s, cattle were grazed year-round on this open, public domain.168 After the Taylor Grazing Act passed, however, the Baker herds were dramatically reduced to conform more closely to the established carrying capacity of the range. For example, in 1935 the Bakers grazed about 1,200 cattle and 75 horses on the unrestricted range. By 1938, the permitted number of livestock had been reduced to the carrying capacity of the range, only 440 cattle as determined by the district grazier. These were to run on an allotment that was the Halls Creek drainage from its mouth at the Colorado River up to Muley Twist Canyon. Apparently, there was no seasonal restriction at this time.169

Though the Bakers protested this reduction through the hearing process, the district grazier's decision was upheld. Even though the Bakers claimed that they could not make a living with such a reduced herd, the ranch continued its operations until the mid-1940s. At that time, Eugene's son, Carlyle, purchased a ranch on the eastern slope of Thousand Lake Mountain. By 1946, the Baker Ranch, and thus the rights to its allotment, had been sold to 10 ranchers from Wayne County, Utah. These men formed the Halls Creek Cattle Association, cooperatively using the Baker property until it was purchased by the federal government for Lake Powell in 1963. Ten years earlier, the Halls Creek Cattle Association transferred its grazing privileges in lower Halls Creek northward to "more productive holdings in Wayne County." 170

168 Ibid., 25-26 gives an excellent account of the yearly ranching routine at the Baker Ranch.
169 Ibid., 28-29.
170 Ibid., 29-31. The allotment was by then known as the Waterpocket Allotment. It was used by the Halls Creek Cattle Company and later by the Blind Bridle Cattle Association, consisting of Don E. and Afton Taylor, Kay Taft, Ernest Peterson, Talmage Bagley, and John Brinkerhoff. This allotment's carrying capacity was established in the mid-1960s and a three-year, 50 percent phase-down was
Pre-1969 grazing management records for the other areas fringing the expanded boundary of Capitol Reef pertain mostly to yearly permits. There are also a few range studies, allotment plans, and protest hearings. These records suggest that the BLM (created from the consolidation of the U.S. Grazing Service and the General Land Office in 1946) sought the cooperation of established ranchers in reducing livestock numbers and regulating use. In many cases, however, the range was in such a weak condition that the BLM changes reduced, but by no means eliminated, damage to the fragile desert vegetation.

Winter Range I: Bureau Of Land Management In The South District

South of the Fremont River, along the eastern slopes of the Waterpocket Fold, is an area of traditional winter grazing known as the Sandy Allotments. This region, which includes the private ranches at Notom and Sandy Ranch (previously the Bowns Ranch), had been heavily grazed by cattle and huge herds of sheep since the late 1800s.

During 1962 and 1963, a comprehensive range survey was completed for the entire West Henry Mountain Range, which extends from the Fremont River to the Colorado River and from the Waterpocket Fold to the west slope of the Henry Mountains. Approximately the western one-third of this range was included in the 1971 Capitol Reef National Park boundary. Detailed vegetation, soil, and climate descriptions were made and final carrying capacities were established.

During the early 1960s, there were 34 cattle operators with a total of 33,196 potential AUMs, and seven sheep operators with a total demand of 20,197 AUMs. These AUMs permitted grazing of 14,000 sheep and 2,000 cattle over seven and a half months in the area south of The Post (one mile south of the junction of the Burr Trail and Notom Bullfrog Road). They also allowed grazing of 4,000 sheep for seven months, 2,930 cattle during the winter, and 864 cattle during the summer. The only summer usage along the Waterpocket Fold was by the Sandy Ranch, then operated by John Christensen.

completed, with some adjustments, by 1968-1969, according to Waterpocket Allotment File, Henry Mountain Resource Area Files.

171 A detailed evolution of BLM grazing management in the areas later incorporated in Capitol Reef National Park is beyond the scope of this study. If there is any further need for information about specific grazing use for the years 1944 to 1969, the BLM allotment records at Hanksville, Richfield, or in some cases, Cedar City, should be examined.


173 Ibid., 12
The current condition of the entire range was established as .8 percent good, 43 percent fair, 39 percent poor, 10 percent bad, and 7 percent wasteland. The range conservationist noted:

The trend for most of the Unit is static with some areas declining. One of the areas which declined quite rapidly is Hall Creek in the Baker Allotment. This area is badly depleted and shows signs of very heavy use. Another of the poorer areas is the flats south of Sandy Ranch. Here most all perennial plants are gone with the exception of greasewood. The predominate forage here is Russian thistle.\textsuperscript{174}

A dramatic increase in erosion, described as "very active and in advanced stages," was also noticed for the southern portion of what later became part of Capitol Reef National Park. Erosion was considered especially significant in the areas of Bitter Creek Divide, Sandy Ranch, the head of Muley Twist Canyon along the Halls Creek drainage, and east of The Post. The range study reported, "The erosion in most of these areas is advancing quite rapidly due to depleted forage conditions and lack of erosion control structures. The erosion in many of the above areas makes travel difficult."\textsuperscript{175}

Much of the range was considered to be in such a fragile state that only a few extra livestock or a slight change in periods of use would be a noticeable detriment to the range. For example, one of the pastures used for study was in the vicinity of Bitter Creek Divide, along the eastern side of the Waterpocket Fold and about six miles north of the Burr Trail/Notom-Bullfrog Road junction. For the 950 acres used in that pasture, it was determined that there were only 56 AUMs of feed available in 1962. The actual use that year was 58 AUMs. The next year there were 52 cattle in the pasture for one month, for a total of 52 AUMs, but there were also 50 cows that trespassed on this range for 10 days. This extra utilization was easily noticed by the survey crew, which recommended that this particular range be maintained at 58 AUMs.\textsuperscript{176}

Because of the depleted condition of the range, it was recommended that the number of livestock and the seasons of use be reduced. This involved eliminating all summer ranges and establishing firm opening and closing dates, which would allow the vegetation to grow, flower, and seed. Identifying livestock distribution as a big problem, the study called for a large number of additional water development projects, salting, and fencing. Because the vegetation types were suitable for both sheep and cattle, and because the area's rugged topography made it difficult to fence out either species, the study concluded that the unit should be used by both classes of livestock. This could be done, the study

\textsuperscript{174} Ibid.
\textsuperscript{175} Ibid., 13.
\textsuperscript{176} Ibid., 10.
suggested, by designating common use allotments or by setting up pastures and alternating livestock use.\textsuperscript{177}

In 1964, the Bureau of Land Management, in accordance with the range survey's recommendations, decided to reduce livestock by as much as 74 percent in the Sandy Allotments. Some ranchers fought this reduction by claiming as much allotment land as possible, thereby pitting neighbor against neighbor. In a September meeting with BLM District Manager R. L. Caudill, the Durfeys of Notom claimed that they were not being given proper credit for land that they had always grazed. Caudill reported that Golden Durfey was so irate about the extreme reduction in his range that he vowed to have "this area as his allotment if it is the last thing that he was able to do."\textsuperscript{178}

Two days later, District Manager Caudill met with the Morrell brothers, who shared the upper Sandy Allotment with the Durfeys. Clearly, the Morrells and the Durfeys believed they were the victims of the larger Christensen and Don E. Taylor herds. Caudill reported:

Both the Morrells indicated their displeasure at the severity of the indicated adjustment. They criticized the Bureau for 'favoritism' to Don Taylor and the Christensen Ranches. They expressed [the] opinion that the present range condition was directly [attributable] to us allowing the Christensen Ranches to graze the area during the summer months. They further indicated that the condition was [attributable] to trespass use by Don Taylor. They indicated agreement in the discussion that the range condition was less than fair condition but stated that they were being unfairly penalized for over use and abuse of the range by the other livestock operators.\textsuperscript{179}

Despite these protests, in January 1965 District Manager Caudill called for a 74.2 percent reduction throughout the Sandy Allotment. He explained:

I fully realize that a reduction in grazing privileges will impose a hardship upon [certain ranchers]. However, the range in the Sandy Area is predominately in a poor to fair condition. Adjustments are essential for this range, with improvement, to reach its potential grazing capacity and a good range condition. A reduction of grazing privileges in the Sandy Area is necessary to reach the grazing capacity of the Federal range.\textsuperscript{180}

Recognizing the hardships imposed, the district manager approved the district advisory board's suggestion of a three-year phaseout. Caudill did give the ranchers some hope,
however. He promised, “Range conditions and utilization studies of the Federal range will be made each year. Should these studies show an improved range condition and increases in grazing capacity, an adjustment in the third year reduction will be made.”

This decision also established a firm maximum period of use as between October 1 and April 15 each year. This was done over the objections from many of the ranchers, the manager wrote, because “closing the range for grazing, during the initial and critical growth period for the forage plants in the spring, will improve the condition of the range. Protection from grazing during the summer months will allow maximum forage protection and provide natural reseeding of the range.”

The district manager, again in consultation with the advisory board, also stipulated that the Sandy area would be separated into three allotments. The Morrels and Durfeys would have their own northern allotment, Sandy #1, around Notom; the Christensen-owned Sandy Ranches would have exclusive use of Sandy #2, which stretched along the eastern side of the Waterpocket Fold; and Sandy #3, from Cedar Mesa to The Post, would be licensed to Don E. and Afton Taylor, C. A. Clark, and Urban Hanks. It was about this time that the Waterpocket Fold Allotment along Halls Creek was also created and use permits issued to Don Taylor (Fig. 35). These partitions were most likely made to help resolve the disputes among the various permittees and make the reductions more enforceable.

Just two years later, bureau officials and some of the permittees conducting a field tour found that the range in all areas had improved. This improvement was impressive enough to justify significantly revising the 1965 timetable.

Winter Range II: Bureau Of Land Management In The North District

Similar difficulties arose in the northern section of what would later be Capitol Reef National Monument: the traditionally grazed areas known as the Cathedral Valley, Middle Desert, Hartnet, and South Desert. An allotment plan for the Hartnet Mesa in 1966 stated:

Prior to passage of the Taylor Grazing Act in 1934, large numbers of livestock were brought from Wayne, Sevier, and Emery Counties to winter these lands. Many of the animals remained on the range year-long, resulting in progressive destruction of soils and vegetation. Reports from stockmen in the area indicate that many trespass horses used the area until

181 Ibid., 3.
182 Ibid., 4.
183 Ibid., 4.
184 Ken Drew, Henry Mountain Area Manager to Files, 18 September 1967, Ibid.
about 1955. Prior to 1946 there were at least 163 cattle and 20 horses licensed yearlong in this area.\(^{185}\)

By 1953, range conditions had not improved. This sparked a dispute between William G. Taylor and Guy Pace as to who had priority use for the South Desert. The year before, the BLM range manager denied Taylor's application, explaining that there was "insufficient forage in the South Desert to take care of these 30 cattle along with qualified use already established in the South Desert." \(^{186}\)

Other evidence and testimony during this appeal established that the permitted use of the South Desert and Middle Desert exceeded established carrying capacity. It was noted that Guy Pace, the primary user of the South Desert, had been forced in 1953 to move his livestock out of the South Desert early because there was not sufficient feed for them. The range manager decided that William Taylor would graze his cattle in the Middle Desert rather than in the South Desert. The hearings officer reported:

The Range Manager...testified the adjoining Middle Desert area was 30 percent over-grazed, [and] it would appear that the Middle Desert as a whole is over-obligated. For this reason the answer to the question of place of use for the appellant appears to hinge solely on proper range management practices and the availability of more carrying capacity in one area than in another does not appear to be a factor as both areas, the Middle Desert and the South Desert, seem to be fully or even over-utilized.\(^{187}\)

In other words, the range was already at or above full carrying capacity and the addition of even 30 cattle for any length of time would infringe on Pace's established priority use.

The Hartnet Allotment, which consumes most of the northern district of Capitol Reef National Park, was examined for a new grazing plan in 1966. Prior to 1961 there had never been a recognized allotment, and thus no long-range grazing plan. In 1961, a common-use allotment was established among James Pace, James Pace, Jr., Don Pace, and Guy Pace. At the same time, the BLM requested a 38 percent reduction in the new allotment. This would have cut the Paces' permitted grazing on the Hartnet Mesa and in the South Desert Valley from approximately 4,000 AUMs to 2,489 AUMs. This was accomplished by reducing the actual number of cattle on the range as well as eliminating all the summer and year-long AUMs. According to a 1957 range survey, these 2,489 AUMs were just below the carrying capacity for the range. Beginning in 1961, the winter range dates were restricted from about mid-October to the beginning or middle of June. This was part of an effort by Bureau of Land Management officials in Richfield to restrict

\(^{185}\) Hartnet Allotment Plan, 3 March 1966, Allotment Files, Ibid.; also see Guy Pace, interview, and other testimony of overuse prior to the 1930s cited above.

\(^{186}\) Taylor v. Pace, BLM Hearings Office Decision, 8 December 1953, Ibid, 2.

\(^{187}\) Ibid., 4, 6, 8.
the desert ranges to winter use only. The summer range was to be in the neighboring national forests and all calves were to be weaned before going onto the winter range.\textsuperscript{188}

Range condition surveys were completed for the Hartnet Allotment in 1958 and 1961. They found no appreciable difference between the two: grazing conditions in both years were classified as poor. In fact, of the allotment's 75,800 grazed acreage, only 1,700 were listed in good condition and 11,500 acres were reported in fair condition. The poor condition of the range required a change in management practices. Accordingly, the BLM, in consultation with the permittees, recommended dividing the range into three pastures, defined by natural barriers. These pastures would be grazed on a rest-rotation pattern for the growing season April 15 to the end of the permitted time in June. This basic pattern of use has continued into the 1990s.\textsuperscript{189}

In September 1966, the common use allotment was formally divided into the Hartnet and Cathedral Allotments. The Paces and William G. Taylor were granted 2,939 AUMs in the Hartnet, with Taylor restricted to the area nearest the Fremont River in the south end of the allotment. The Cathedral allotment to the north (of which only a small western section was later added to the park) was allotted 3,311 AUMs of winter grazing permits, divided among 13 permittees.\textsuperscript{190}

\textit{Grazing And The Creation Of Capitol Reef National Park}

It was not until the 1950s and '60s, then, that significant range reductions were first made on the ranges now within Capitol Reef National Park. While these sometimes dramatic limitations resulted in disputes among permittees and BLM officials, collaboration was essential for easing pressure on the depleted rangers east and north of the Waterpocket Fold. Yet, even with such cooperation, the resource itself was often compromised. Grazing continued on the abused land because it was often the ranchers' only source of winter feed. The Bureau of Land Management's focus was on the land's best use, traditionally assumed to be grazing. In the era before recreationists discovered southern Utah, it was inevitable that grazing would continue to be the predominant, priority use.

In January 1969, however, all these assumptions changed. In literally the last hours of Lyndon Johnson's administration, the president signed a proclamation to increase the size of Capitol Reef National Monument by 600 percent. The new monument lands now encompassed a great deal of land believed by the local residents, and by the federal multiple-use land management agencies, to be essential winter grazing lands. The outrage of the local communities toward this "federal land grab" exemplified the deep-rooted local

\textsuperscript{188} Hartnet Allotment Plan, 3 March 1966, 2; also see BLM District Manager to Files, 13 March 1963, Ibid., for seasonal restrictions and maximum periods of use for all BLM allotments in the area.

\textsuperscript{189} Ibid, 3; Guy Pace, interview, 25.

\textsuperscript{190} Notice of final Advisory Board Recommendation and Decision of District Manager, 21 September 1966, Ibid.
belief in a right to graze the land. It also significantly shaped the grazing policy at Capitol Reef for the next 25 years.

*Early Policy Decisions: 1969*

The controversy and uproar sparked by the enlargement of Capitol Reef National Monument has been discussed in Vol. I, Chapter 11. The most outraged responses, by far, to the surprise addition of 200,000 acres to Capitol Reef came from the local, traditional land users of the public domain. They saw this expansion as an ill-considered move by an uncaring and arrogant federal government, which would destroy their livelihood and drive the residents of Wayne and Garfield Counties to the poorhouse. While all multiple-use proponents, including miners and some motorized recreationists, opposed the expansion, the ranchers were the ones with the most to lose. As a result, they were also the most vocal in their opposition.

The 1969 presidential proclamation itself addressed the concerns of livestock operators by including the same clause that was in the original 1937 monument proclamation, establishing the right to use stock driveways across the new monument lands. This concession did little, however, to mollify local opposition.

Boulder, Utah, was the home of many of the ranchers who used the southern half of the Waterpocket Fold for winter range. Residents there passed a resolution changing the town's name to "Johnson's Folly." The ranchers of Wayne County organized a press conference at the county seat in Loa, for pictures and articles describing how 41 families would be left destitute by the new monument boundary. Meanwhile, the Utah congressional delegation used the floor of Congress and hastily called field hearings to protest this perceived usurpation of rights by the Johnson administration.

At the root of all these complaints was the assumption that the national monument expansion would eliminate grazing in the affected areas. So long as the opposition remained vocal and passionate, there was the hope that the monument boundaries would be scaled back or that grazing would be allowed to continue within the expansion. The National Park Service failed to provide any clear message to the public or congressional hearings during the rest of 1969. Nevertheless, officials were working behind the scenes to establish a fair but restrictive grazing policy for the beautiful lands of a now 250,000-acre national monument.  

Before the presidential proclamation of January 21, 1969, National Park Service officials treated grazing matters at Capitol Reef National Monument as an easily resolvable and fairly insignificant issue. For example, when Superintendent Robert Heyder was first asked to come up with boundary proposals in September 1968, he did not seriously address grazing. This may have been because Heyder could not get the information he

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191 See Chapter 11 for more information about newspaper accounts and the first round of congressional hearings.
needed from the BLM without alerting those officials to the confidential monument proposal. Further, Heyder believed that the National Park Service could easily phase out the limited grazing within the new monument lands.\textsuperscript{192}

On February 20, 1969, Utah BLM Director R. D. Nielson supplied a list of encumbrances within the new monument lands to the National Park Service. This occurred just one month after presidential proclamations expanded both Capitol Reef and Arches National Monuments. Included in that list were estimates of the numbers of livestock and ranchers affected by the expansion. Nielson figured there were 62 grazing permittees with 6,000 AUMs within the expanded monument.\textsuperscript{193} Although the boundary had been made public only a month earlier, and although only a portion of most allotments fell within the new monument, Nielson's estimates were impressively close to the final counts provided two months later. The totals showed 39 individuals, some with more than one permit, allowed to graze approximately 6,077 AUMs on BLM lands, and seven permittees with 104 AUMs on Fishlake National Forest.\textsuperscript{194}

One month later, the grazing policy in the newly expanded monuments was clarified by the Washington office. In a memorandum to the Under Secretary of the Department of Interior, Associate National Park Service Director Edward Hummel assured the public that

\textit{no orders have been issued to any Superintendents to start moving grazers out or to discontinue their grazing privileges held under previous land managers...We have, however, informed our field personnel that the grazing privileges in the extension to both monuments [Arches and Capitol Reef] will be handled in the same manner as at Canyonlands National Park.}\textsuperscript{195}

The associate director explained exactly how the grazing phaseout in Canyonlands, and thus Arches and Capitol Reef, was being handled:

\begin{quote}
The language of the Act of September 12, 1964, establishing Canyonlands, authorized the Secretary of the Interior to permit holding grazing privileges to continue in the exercise thereof during the term of the lease, permit or license, and one period of renewal thereafter. The legislative history of this provision indicates that it was the intent of Congress to authorize the
\end{quote}

\begin{footnotes}
\item[192] Robert Heyder, interview with Bradford Frye, tape recording, 1 November 1993, Administrative History files and notes.
\item[193] R. D. Nielson to Regional Director, 20 February 1969, Box 2, Folder 5, Capitol Reef National Park Archives.
\item[194] Nielson to Regional Director, 15 April 1969, Ibid. The difference in the number of permittees is most likely due to the fact that several people had more than one permit.
\item[195] Hummel to the Under Secretary, 26 February 1969, File L3019-Stock Driveways, Capitol Reef Historical Superintendent’s Files.
\end{footnotes}
Secretary to grant such renewals for a maximum period of ten years and thereafter to preclude further grazing. Therefore, the privileges for grazing in the recently acquired land may be extended for a maximum of ten years beyond the termination date of the permits that were valid on the date of the acquisition.196

Hummel also pointed out that there were no funds authorized for the expanded areas of the monuments and he did not expect new appropriations until Fiscal Year 1971.

Besides the lack of money, an additional problem was trying to anticipate how Congress might address the monument expansion dispute. Proposals ranged from changing the status of Arches and Capitol Reef to national parks within their previous or expanded boundaries, or even making the southern half of Capitol Reef into a multiple-use recreation area. Until money and congressional intent were known, however, National Park Service officials had to come up with a temporary plan to manage grazing in the new areas.

Since the National Park Service had neither the expertise in grazing management nor an in-depth knowledge of local conditions, officials opted for the most logical course of action: have the Bureau of Land Management continue to monitor the permittees within the new areas. It was, however, agreed that there would be no increase in AUMs, that the permits would be issued only on a year-to-year basis, and that there would be a moratorium on the building of "facility type improvements." Any changes in management or proposals for development in the new monument areas would require approval by the National Park Service superintendent and the Bureau of Land Management district manager. This temporary, cooperative effort between Capitol Reef and area BLM officials would later become permanent.197

Grazing Language In Capitol Reef's Legislation: 1971

By 1971, it was clear that Capitol Reef was going to become a national park with boundaries slightly reduced from those in Johnson's proclamation. Still needing resolution, however, was the time period over which the grazing phaseout would occur.198

The Senate bill, sponsored by Senator Frank Moss of Utah, had been refined during the previous two years to whittle away important grazing areas from the northern part of the monument. It also proposed to transfer Paradise Flats and upper Deep Creek to the monument from Fishlake National Forest, and rework the boundaries in the southeastern section of the park to conform to the natural escarpment across from the Waterpocket

196 Ibid.

197 Nielsen to District Managers, 17 July 1969, Folder 33, Arches Administration Collection, Arches National Park Archives.

198 See Chapter 11 for a more detailed legislative history for Capitol Reef National Park.
Fold. As to grazing, Moss's S. 29 was extremely detailed, yet effectively obtuse. For one thing, the bill called for a much more liberal phaseout of grazing than the National Park Service had anticipated. Moss wanted a 25-year permit period, followed by a phaseout that could be extended indefinitely if the grazing permit was held by the original permittee (or a member of the permittee's immediate family) at the time of the bill's passage. This would have continued grazing within most of Capitol Reef for perhaps 40 to 60 more years. S. 29 also stipulated that the Secretary of the Interior could "adjust such privileges to preserve the park land and resources from destruction or unnecessary injury." This extended grazing phaseout was approved by the Senate Committee on Interior and Insular Affairs because the reason, Sen. Moss explained, was that "the committee believes that the provisions of the bill are reasonable in view of the bitter controversy raised by residents of the area who own grazing rights, and in view of the fact that the number of rights affected is very limited." The Senate's long-term phaseout version was taken almost verbatim from the enabling legislation for Grand Teton National Park. Grand Teton was created by merging a tiny Grand Teton National Monument with Jackson Hole National Monument, which also had its own controversial origin because of the private lands and grazing within its new boundaries during the 1930s and 1940s.

The Capitol Reef legislation would be patterned after that of either Grand Teton or Canyonlands National Park. A 10-year phaseout timeframe had already been established at Canyonlands National Park, but livestock grazers had more political clout in Grand Teton than in Canyonlands. When the Capitol Reef bill made it to the House of Representatives, the grazing section was amended to conform more closely with the 10-year phaseout desired by the National Park Service. Ultimately, though, Capitol Reef would follow in the example -- and controversy -- of Grand Teton National Park.

When the congressional conference committee met in November 1971, it concurred with the House proposal to restrict grazing to "the persons holding such grazing privileges or their heirs to continue in the exercise thereof during term of the lease, permit, or license, and one period of renewal thereafter." The conference report concluded, "The Committee of Conference agreed to accept the House language on the basis that it

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199 Capitol Reef National Park Bill, 92nd Cong., 1st sess., S.29, section 3.
201 U.S. Statutes at Large 64 (1950): 851.
provides an adequate, reasonable, and equitable period of time to phase out the grazing privileges within the park.”

The 10-year phaseout was passed by both houses of Congress and signed by President Richard Nixon on December 18, 1971. P.L. 92-207, which created Capitol Reef National Park, was the first specific congressional action related to the Waterpocket Fold country. The language pertaining to grazing was also the first mandated grazing policy for these lands.

Unfortunately, legislators did not anticipate the problems of dealing with the large number of permittees, or realize that some permits were for 10 years and others were for only one. The last-minute, congressional rewrite of Senator Moss's bill would later trigger protests of the phaseout schedule.

**Stock Driveways In Capitol Reef National Park**

A separate section of the enabling act also pertained to stock driveways. P.L. 92-207 specified:

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 this 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.

In the old monument lands, there were traditional driveways through Grand Wash, Capitol Gorge, Pleasant Creek, plus a new one along the recently built road through the Fremont River canyon. These driveways were heavily used by as many as 17 livestock operations involving 1,670 cattle. In addition, several of the operators were using trucks almost exclusively to haul their cattle from summer to winter range and back. By 1970, the 1,000 head of sheep owned by Guy Coombs were also being trucked between ranges.

These driveways had been first authorized by the 1937 presidential proclamation. Although there had been several proposals to designate a single driveway and close the rest to such use, this position had been weakened during the 1967 Wilderness Proposal

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206 Superintendent William Wallace to Regional Director, 2 July, 1970, L3019-Stock Driveways, Capitol Reef Historical Superintendent’s Files.
hearings. At those hearings, National Park Service officials acknowledged traditional use of the Grand Wash, Capitol Gorge, and Pleasant Creek driveways.207

In the new national park lands to the north, there were three stock driveways designated by the BLM and U.S. Forest Service. The one furthest north, used by Carlyle Baker, was outside the park boundary. The second driveway went from the town of Fremont, over the northern flank of Thousand Lake Mountain, past Round Lake, and then dropped into Upper and Lower Cathedral Valleys. In 1970, this stock trail was used by 16 operators herding approximately 1,000 head of cattle and 1,200 sheep. The third driveway began on the eastern slopes of Thousand Lake Mountain the vicinity of upper Sulphur Creek. It passed along the Holt Draw/Elkhorn Road and then down the Polk Creek Road before dropping into the Hartnet and South Desert. In 1970, this driveway was used by Don Pace with 183 head of cattle, and by Ross, Van, and Chapman Taylor to drive about 150 head between Fishlake National Forest and the eastern Hartnet area.208

To the south of Pleasant Creek, the Oak Creek canyon was the only route consistently used by those trailing from the east slope of Boulder Mountain to the lower Waterpocket Fold. All other stock driveways were too precarious for modern cattle operations, and sheep had been eliminated from crossing the lower Waterpocket Fold due to the Taylor Grazing Act restrictions. Thus, the only consistently active driveway south of Oak Creek was the West Henry Mountain stock trail. This followed the Notom-Bullfrog Road along the eastern side of the Fold from the Fremont River south to The Post (running east of the road between Cedar Mesa and Divide Canyon). From there, some animals were driven south of The Post into the Muley Twist and Waterpocket Fold Allotments, by way of the Halls Creek drainage. In 1971, these driveways were well established, and thus authorized by the enabling legislation of Capitol Reef National Park.209

The use of the Fremont River canyon, Grand Wash, Capitol Gorge, and Pleasant Creek driveways was controlled by special use permits issued without charge by the superintendent. The driveways to the north and south were controlled by the other

207 See Chapter 10 for details on the 1967 wilderness hearings and the decisions regarding the stock driveways as exclusive from wilderness designation.


209 Robert C. Krumm, BLM District Manager, to Permittee, 13 April 1959, Allotment Files, Henry Mountain Resource Area Files. There were some slight additions to these driveways listed in the 1974 Wilderness Proposal for Capitol Reef. This report established that there were 86 miles of stock driveways in the park. These were broken down into 12 separate trails. The only differences to ones listed above are a breakdown of the headquarters trails, the seldom-used Dry Bench just south of the Coleman Canyons, and what was called the South Waterpocket Lateral Access. It is not known exactly how extensively these additional trails were being used by the 1970s. See National Park Service, Denver Service Center, "Proposed Wilderness, Capitol Reef National Park, Utah," Draft Environmental Statement, 27 June 1974, 74. (This draft EIS was withdrawn in 1983).
federal land use agencies. These driveways could become invalid only if permits were transferred or the range was no longer utilized.  

The only recorded conflict regarding the stock driveways, other than an occasional extra-slow livestock drive through the park, occurred in 1976. Rancher Jack King, while preparing to move his cattle from winter to summer range through Oak Creek canyon, discovered that the driveway above the Oak Creek dam was blocked by a landslide. King, who had a drive permit from the BLM but not the National Park Service, wanted the trail cleared as soon as possible. He hired Terry Jackson to bulldoze it open. Capitol Reef management did not even know the action had taken place until King billed the BLM $2,500 for the work, and the BLM forwarded the bill to park headquarters.  

After investigating the bulldozer trespass, the National Park Service decided to ask the U.S. attorney to file petty offense charges for "construction of road or trail [within the] park area without valid permit." In August 1977, District Judge Willis Ritter dismissed the charges without even hearing the National Park Service arguments. Ritter's ruling was overturned by the U.S. Circuit Court of Appeals a year later.  

The significance of this episode is that King approached the problem of a blocked stock trail much as he had for many years. He used his own initiative to clear the trail and then billed the Bureau of Land Management. Of course, by 1976, Capitol Reef National Park controlled the land, but King acted either purposely or unknowingly without regard to this fact. Many local residents would continue to handle livestock problems as though land management of the area had not changed. 

As time has passed, the stock driveways became less important. More and more of the operators began trucking their livestock between ranges. In 1993, only Guy Pace was still using the stock driveways through the headquarters area, and he trailed fewer than 100 head of cattle through the Fremont River canyon. The other driveways, particularly through Oak and Pleasant Creek drainages, are also still used to trail stock on a regular basis, but not nearly to the extent they were utilized in the early 1960s. 

Grazing Management In The 1970s: Preparing for a Phaseout That Didn’t Happen 

Once the legislation creating Capitol Reef National Park had been signed into law, park managers faced three imminent grazing issues. The first was the need to establish the cooperative agreement allowing the BLM to continue monitoring grazing within the park boundaries until the practice was phased out at Capitol Reef. The second was the need to

210 See correspondence between Frank Kowski, Southwest Regional Director, and Assistant Director Hummel, 3 August 1970, File L3019-Stock Driveways, Accession #79-76F-1229, Box 10, RG 79, NA-Denver and 18 September 1970, File L3019-Stock Driveways, Capitol Reef Historical Superintendent's Files, for information on how stock driveways were administered during the 1970s. 

211 The Deseret News, 10 August 1977.

212 Ibid., The Deseret News, 28 July 1978.
document just how grazing was impacting the park's resources. The third was the need to establish an equitable way to phase out grazing among the various permittees, since the permit periods varied.

Throughout the 1970s, National Park Service officials believed that the grazing phaseout would be implemented as scheduled. Accordingly, they saw little need for the National Park Service to spend money on or dedicate personnel to an issue that would be eliminated fairly quickly. The park's former Chief of Resource Management Norman Henderson recalled:

> With the grazing issue clearly settled, the NPS entered a maintenance phase with regard to actual management of livestock use within the park...The NPS initiated no research and conducted no monitoring of the grazing activities within Capitol Reef National Park. It is apparent that the NPS considered the grazing issue settled and that in a few years there would be no impacts to worry about so there was no need to conduct studies.\(^{213}\)

Due to the number of different allotments and variety of permits, the Bureau of Land Management was asked to continue handling the day-to-day grazing matters within the park during the winter grazing period. The U.S. Forest Service was asked to help with the small amount of summer grazing on upper Polk Creek and in Paradise Flats. The cooperation between the sister agencies, while sometimes strained because of different mandates, was usually excellent. This good working relationship, especially with the BLM, has been a key reason why the National Park Service only recently suggested that the park manage the day-to-day grazing operation within its boundaries.\(^{214}\)

It was obvious to Capitol Reef managers, nevertheless, that the traditional methods of grazing livestock were incompatible with National Park Service mission and policy. The number of cattle grazing in Capitol Reef during the winter was estimated in 1974 at 1,014 over 5.3 months a year, for a total of 5,343 AUMs (once animal death and loss was factored). These numbers made it nearly impossible to manage the new park lands in the same manner as some of the older, more pristine national parks. Since the cattle tended to congregate in the vicinity of roadside water catchments, anyone traveling on the park's backroads would notice that Capitol Reef National Park was not exactly a pristine

\(^{213}\) Norman Henderson, "Grazing Management, Capitol Reef National Park," October 1985, Capitol Reef Resource Management Files, 3. This is a comprehensive examination of the grazing policy and studies involving Capitol Reef during the early 1980s.

\(^{214}\) The positive working relationship between agencies and the likelihood of continued cooperation were mentioned in an informal interview with Capitol Reef National Park Chief Ranger Rick Nolan on 2 February 1994, and in a 16 May 1994 telephone interview with Martin C. Ott, who served as superintendent at Capitol Reef from 1987 to 1990; tape in Administrative History files and notes.
environment. Capitol Reef officials found it difficult to fit their wilderness ideals to actual conditions in parts of the park.  

A draft wilderness proposal and a comprehensive environmental assessment on the proposed grazing phaseout were completed in 1974. These documents helped to document range damage and presented alternatives for grazing management and range rehabilitation. Unfortunately, these documents were not useful for long-term planning, for two reasons. First, the alternatives would become moot when the grazing phaseout was extended in 1982; and second, they were written by National Park Service employees who appeared to be biased against grazing.  

The draft wilderness proposal determined that grazing could coexist with wilderness so long as certain restrictions were met. Some of the more heavily grazed areas in the northern end of the park were eliminated from wilderness consideration. Nevertheless, grazing would occur in each of the wilderness units. Proposed restrictions on grazing would prohibit motorized vehicles during roundups and on the 10 miles of stock trails within the wilderness units. It was believed that this would be problematic only in the South Desert, where the access road from Lower South Desert Overlook was to be closed.  

While the wilderness proposal touched on the problems of grazing, it was based on the assumption that grazing would be phased out by as early as 1975 across much of the southern end of the park. The last permit, within the Hartnet Allotment, was expected to be terminated in 1992. This relatively quick phaseout was seen as a good reason why wilderness designation should be considered in the grazed areas of Capitol Reef National Park. What had yet to be worked out, however, was an equitable solution to the disparity between permit phaseout dates.

In order to gather the pertinent information and provide alternatives for an equitable grazing phaseout, an environmental assessment on the grazing phaseout was completed the same year as the wilderness proposal. This document provided an extremely detailed analysis of the natural resources, such as soils, vegetation, and wildlife, and recounted how each had been affected by 100 years of grazing. The environmental assessment also examined the economic implications of the grazing phaseout and provided six alternatives for the eventual elimination of grazing from Capitol Reef, as mandated by Congress.  

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218 Ibid.
219 This document is believed to have been written by Gerald Hoddenbach, who as Capitol Reef National Park's biologist at the time. While this document's planning aspects are now dated, it should still be required reading for anyone involved with natural resource management at Capitol Reef.
The scientific analysis presented in the environmental assessment goes a long way in establishing the adverse effects of grazing in the desert environment. The report also argues for a correlation between climatic fluctuations and the increased damage from grazing, and points to the damage caused by not rotating cattle out of riparian zones on a regular basis. For example, the environmental assessment reported that older cottonwood trees in heavily grazed areas along the Fremont River were noticeably absent, presumably because cattle had somehow destroyed that generation of trees.

The conclusion reached by this environmental assessment was that grazing was incompatible with the values and management philosophy of the National Park Service in the 1970s. In discussing the altered landscape, the assessment states:

> Overuse of areas where ground water availability would normally produce picturesque miniature meadows as well as those areas where warmer micro-climate reduces winter and spring snow cover to expose vegetation are denuded and normal surface conditions are destroyed. We are often asked, 'Why do you permit consumptive cattle and grazing activities to damage the land and aesthetic values of our national parks when human visitors are prevented from doing much the same thing with off-road vehicles, out of bounds camping, plant, animal and mineral collecting, pets off leash, etc., etc.?' Cattle ranchers are allowed vehicle access, for instance to certain areas that visitors are prevented from driving in: South Desert, Halls Creek, Divide Canyon Road, Swap Canyon, a trailer house on Burr Flat and a dozen or more corrals. It is difficult to display consistent management practices for natural values where these two opposing interests interact.

It was thus argued that, since grazing was destructive to the natural environment, it should be eliminated as soon as possible. Of course, the National Park Service also had the congressional legislation that provided a relatively quick phaseout. The problem was that the legislation did not take into consideration that some permits were on a yearly basis and some were 10-year permits. To solve this dilemma, the environmental assessment proposed six alternatives. These ranged from an inequitable phaseout under a literal interpretation the legislation, to gradual phaseouts for the yearly permittee and no renewal for those holding 20-year permits (effectively ending grazing in 1982). Alternative 6 was the most extreme choice. It called for grazing to be "immediately" phased out within Capitol Reef "and presently applicable AUMs be transferred to other contiguous Federal lands." Based on the positive and negative effects listed for each alternative, this was the one clearly favored by the author(s) of the environmental assessment.

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221 Ibid., 10-18.
222 Ibid., 17.
223 Ibid., 22-38.
The favored Alternative 6 failed to consider the fact that there were no suitable "contiguous Federal lands" to which to transfer the park's AUMs. The draft wilderness proposal noted:

The Bureau of Land Management indicates there is little prospect for accommodating the livestock displaced from Capitol Reef on ranges they administer...As a result, as grazing permits expire, the Bureau of Land Management will be reducing the number of AUMs in each shared allotment commensurate to the loss of range within the park.224

The environmental assessment went to great lengths to demonstrate that winter grazing was mere maintenance, and that cattle usually lost weight during the time they were on Capitol Reef lands. The document also placed a value of $4.71 on each AUM to show that the economic value of cattle ranching in Capitol Reef was insignificant. These figures did not show that, since there was no other available winter range, closing the park to grazing could force several livestock operators out of business. Thus, the economic impacts of a rapid phaseout would not be as innocuous as the environmental assessment suggested. Another problem with the environmental assessment was that, if one of Alternatives 3 through 6 was approved, the grazing phaseout would be initiated earlier than the 1982 date assumed by most local ranchers.

While the assessment was open to public review and comment for 30 days, those comments, unfortunately, are not part of the permanent record. Local newspapers reported that the locals were outraged at some of the proposed alternatives. The Wayne County Board of Commissioners opposed Alternatives 3 through 6. Verl Bagley, the area's agricultural extension agent, complained:

Our ranchers are having a hard time understanding why it's even necessary for the Park Service to consider alternatives to agreements previously made by Congress and the President. I hope the people of Wayne County will join the county commission and stockmen in writing letters of protest to the Park Service and to our solons in Washington about the disregard by the Park Service for previous promises.225

Evidently, local ranchers were resigned to the inevitable phaseout beginning in 1982 and ending in 1992. However, the environmental assessment had offered at least three new alternatives requiring a more rapid withdrawal, leaving ranchers feeling betrayed. Their protests soon received the attention of Sen. Moss. Moss angrily protested to Secretary of Interior Roger C. B. Morton that the National Park Service was breaking its promise to him regarding grazing rights in the park.226

224 "Proposed Wilderness," Draft, 111.
225 Salt Lake Tribune, 6 November 1974.
An agreement between the ranchers and National Park Service officials may not have been possible so soon after the sudden expansion of Capitol Reef. The wilderness proposals and the grazing phaseout schemes presented in the environmental assessment further polarized positions.

In June 1975, National Park Service Director Russell Dickenson finally decided how the grazing phaseout at Capitol Reef National Park was to be structured.\textsuperscript{227} As previously mentioned, grazing permits affecting Capitol Reef were either for one year or 10 years. This meant that if the legislative wording was strictly interpreted, then some permittees would be phased out in two years and others would have 20 years. This proved to be a unique situation, since both Arches and Canyonlands, whose grazing phaseouts were governed by the same legislative wording, had to deal only with 10-year permits. Because of this uniformity, those parks effectively phased out their grazing by 1983.\textsuperscript{228}

After taking the ranchers' and conservationists' opinions into consideration, Director Dickenson elected to go with a fairly safe compromise. The 10-year permits within Capitol Reef would be given one period of renewal, as stipulated in the enabling legislation of December 18, 1971; one-year permittees would be allowed to renew their permits annually over 10 years, beginning December 18, 1972. All permits would be terminated by May 31, 1982. This meant that the beginning of the phaseout would be delayed by about seven years, which was supposed to mollify the ranchers. It also meant that grazing would still end at Capitol Reef in 1992, which was meant to satisfy the conservationists.\textsuperscript{229} While it seemed that the issue finally had been resolved, this compromise merely extended the grazing controversy at Capitol Reef.

This was essentially an argument over which should take precedence, the traditional grazing use or the more recent preservationist philosophy. At the turn of the century, when the livestock industry became the economic foundation of south-central Utah, there were few people who placed aesthetic values over economic ones. As the national park idea evolved along with a general environmental consciousness during the course of the 20th century, conflict between the old and new attitudes toward land use was inevitable. National park managers would have to deal with the clash of philosophies that resulted when a new national park was established in a traditional multiple use area. If the change occurred too quickly, then conflict was bound to be more bitter.

At Capitol Reef, managers whose job it was to preserve and protect new park lands brushed aside the local traditions, justifying their proposals with calculations of AUMs,

\textsuperscript{227} Director Dickenson to Secretary of Interior, 20 June 1975, Box 3, Folder 7, Capitol Reef National Park Archives.

\textsuperscript{228} Ibid. The grazing phaseout also went more smoothly at Arches and Canyonlands because there were fewer livestock operators and because economic impacts were less significant than at Capitol Reef. Insight on this issue was provided in a phone interview with Martin Ott, 16 May 1994.

\textsuperscript{229} Dickenson to Secretary of Interior, 20 June 1975. See other correspondence and grazing phaseout briefing statement in Box 3, Folder 7, Capitol Reef National Park Archives.
forage content, and dollars. The National Park Service figures showed that the winter grazing ranges of Capitol Reef were fairly insignificant for most of the permittees. The figures could not indicate how local people would react to the elimination of winter range grazing. Yet, the failure to involve the local permittees in the removal process led directly to new phaseout legislation that has enabled grazing to continue well beyond the initial target date of 1992.

Extended Phaseout and Partial Buyout: Grazing During the 1980s

The Sagebrush Rebellion, climaxing in the early 1980s, revived the fight between ranchers and environmentalists over grazing practices on the public domain. Throughout this period, “rebels” across the West attempted to transfer federal grazing lands to more sympathetic state or even private control. While these efforts eventually failed, the election of Ronald Reagan and the policies of Interior Secretary James Watt brought administrative support to the ranchers’ position.

In this new climate of support for multiple use, the ranchers of south-central Utah urged their congressional delegation to postpone the grazing phaseout at Capitol Reef National Park. In the congressional debate that followed, it was clear that the National Park Service, under Watt’s leadership, was prepared to reverse its policy and endorse a grazing extension. It was also clear that there were no thorough, independent studies to show the actual effects of grazing on the varied resources of Capitol Reef. In the end, a compromise postponed the beginning of the phaseout for 10 years until such studies were completed.

Since there was no extra money to fund independent studies as originally proposed, these studies began under National Park Service impetus. Meanwhile, the climate for a final compromise developed toward the end of the 1980s. When a Department of the Interior Solicitor’s ruling made it possible to buy out the AUMs within the park, a complicated compromise was worked out among all the parties involved. The result has been a dramatic reduction of grazing throughout most of the park, a little security for those ranchers who are left, and the beginning of positive relationships between the National Park Service and the local communities. What follows is the story of how grazing at Capitol Reef moved from conflict to compromise.

1981: The Livestock Supporters Go On The Offensive

In the spring of 1981, Capitol Reef National Park was undergoing the process of writing a new general management plan. Since the first grazing permits were scheduled to be eliminated the next year, it was proposed that some slight boundary changes be made to conform to natural boundaries, thus eliminating the need for some expensive fencing. The park’s managers invited the Bureau of Land Management and representatives from Utah’s
congressional delegation and Garfield and Wayne Counties to a meeting in late April to discuss the options. This meeting opened a veritable can of worms.\textsuperscript{230}

Within the next couple of days, the Wayne and Garfield County Boards of Commissioners proposed their own (previously considered) alternative that would guarantee the continuation of a majority of winter grazing in the Waterpocket Fold area. Their proposal called for eliminating national park lands in the northern district and changing the entire southern half of Capitol Reef from a national park to a national recreation area. This move would reduce Capitol Reef National Park by over 70,000 acres or 30 percent.\textsuperscript{231}

The BLM also proposed dramatic alterations to the park boundaries. Its proposal called for returning over 38,000 acres from the northeast, southeast, and Circle Cliff areas to BLM control, and transferring 8,300 acres from the BLM to the northwest corner of Capitol Reef. The BLM's purpose was the same as that of the counties: to remove as much grazing land from Capitol Reef as possible. Superintendent Derek Hambly was not enthusiastic about the proposals. In a magazine article about the BLM proposal, Hambly is quoted as saying, "They went a little wild when we asked for the changes. We have never advocated this exchange at all."\textsuperscript{232} While the BLM maintained that these alternatives were merely suggestions that would obviously need congressional approval, Capitol Reef managers and their supporters saw them as an ominous threat to the park's integrity.\textsuperscript{233}

These boundary changes were never made. The lack of communication and cooperation between the agencies during 1981 would leave Capitol Reef in a decidedly weakened position to fight off the next, more substantial efforts to extend grazing within the park.

By October 1981, the Utah Farm Bureau was lobbying Utah's congressional delegation and Governor Matheson to support legislation extending grazing privileges to the heirs of current permittees. This proposal, based on the Grand Teton model, was similar to the bill proposed by Sen. Moss back in 1971. The Farm Bureau also advocated continued grazing indefinitely within the park, or at the very least, prohibiting the use of government funds to carry out the scheduled phaseout. The stated reasons for altering P.L. 92-207, which established Capitol Reef National Park and the 10-year grazing phaseout, included:

\textsuperscript{230} Milo A. Barney, BLM Resources Coordinator, to Temple A. Reynolds, BLM State Deputy Director, 5 June 1981, Box 3, Folder 7, Capitol Reef National Park Archives. This document includes a complete itemization of the three proposals. The National Park Service proposals are also listed in the "General Management Plan, Capitol Reef National Park," October 1982, 56.

\textsuperscript{231} Salt Lake Tribune. 1 May 1981.

\textsuperscript{232} Westward, 29 October 1981, photocopy in Grazing Articles Folder, Capitol Reef National Park Archives.

\textsuperscript{233} Donald Pendleton, BLM District Manager, to Superintendent Hambly, 15 September 1981, File L3019, Capitol Reef Historical Superintendent's Files.
1) the adverse economic impact on ranchers and the local communities;
2) the historical value of grazing;
3) the present, viable condition of the range;
4) the lack of visitor conflict with winter grazing in the park;
5) the impracticality and cost of fencing; and
6) the rushed manner in which the 10-year phaseout was pushed through Congress.

These six reasons for change would dominate the legislative history of S. 1872. 234

1982: Legislation To Extend Grazing In Capitol Reef

The Utah Farm Bureau lobbying effort was quite effective. First, the Utah delegation attached a rider to the 1982 Interior Appropriations Bill, placing a one-year moratorium on the grazing phaseout while other alternatives were explored. 235 Then, on November 19, 1981, Sen. Jake Garn introduced Senate Bill 1872, which would change the 10-year phaseout schedule to the more liberal lifetime or "grandfather" phaseout. Most of Sen. Garn's points appear to have come from the Utah Farm Bureau grazing issue brief. Since the bill was introduced so late in the congressional session, it would not be given serious consideration until 1982. 236

The problems facing Capitol Reef were discussed among Don Gillespie (Utah State Coordinator for the National Park Service), former Senator Moss, and powerful park supporters Gene and George Hatch in January 1982. The Hatches took quite seriously the threats to reduce the size of the park. According to Gillespie, the two men "remain convinced that support of Garn's grazing 'Bill' is necessary to avoid a serious effort to reduce the size of Capitol Reef." Gillespie tried to persuade George Hatch, who owned KUTV in Salt Lake City, that the boundary alterations would be less of a threat than setting the precedent of extending grazing privileges in the park.

After Rep. James Hansen echoed Garn's arguments when he introduced his similar bill in the House on March 18, 237 Superintendent Hambly wrote Rocky Mountain Regional Director Lorraine Mintzmyer. He assured her that the end of grazing in the park would

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234 C. Booth Wa llentine, Executive Vice President, Utah Farm Bureau, to Governor Scott Matheson, Ibid.


not cause a significant harm to the area's economy.\textsuperscript{238} Mintzmyer supported Hambly's conclusions, and in early April she urged National Park Service Director Russell Dickenson to reconsider a National Park Service draft proposal in support of S. 1872. Mintzmyer's objections included the following:

1) All previous proclamations and legislation made it clear the National Park Service was to determine management policy for the park.
2) There was "existing and continued permanent resource damage" due to grazing.
3) The cost of maintaining the grazing would be more than eliminating it.
4) Conflicts existed due to the incompatibility of cattle and the backcountry users of the park.

In short, the regional director proposed that the National Park Service oppose S.1872 "based on the National Park 1916 Act establishing the National Park Service and the effects of grazing on this fragile desert area within Capitol Reef National Park." \textsuperscript{239}

By the April 14 Senate hearings on S. 1872, it was obvious that the National Park Service Washington office was going to reject the advice of Hambly and Mintzmyer, and support the bill to extend grazing within Capitol Reef National Park. From this point on, the National Park Service testified in favor of the bill, so long as some minor amendments were added. These small alterations sought by the National Park Service would clearly limit the extension only to grazing, as opposed to mining or other extractive uses. They would also limit the extension to apply only to the permittees' immediate family and one heir, thus ensuring an eventual phaseout.\textsuperscript{240}

With the support of the National Park Service, the passage of S. 1872 seemed all but assured. During the course of the testimony before the Senate and the House committees, however, the lack of comprehensive, impartial studies was noted repeatedly. The Utah ranchers testifying in favor of the bills and the opposing environmental lobbyists used different figures and emphasized different priorities. Director Dickenson and Superintendent Hambly, without data, could not address the differences. They were left to make guesses about or not answer questions pertaining to specific impacts from grazing and its potential phaseout.\textsuperscript{241}

\textsuperscript{238} Hambly to Regional Director, 25 March 1982, File Phase Out #1, Capitol Reef Resource Management Files.
\textsuperscript{239} Mintzmyer to National Park Service Director, Draft Memorandum, 6 April 1982, Ibid.
\textsuperscript{240} Donald Paul Hodel, Under Secretary of Interior, to Senator James McClure, Chairman, Committee on Energy and Natural Resources, 10 May 1982, in Senate Committee on Energy and Natural Resources, Grazing Permit Adjustments For Capitol Reef National Park, Utah, 97th Cong., 2nd sess., 1982, S. Rept. 97-448, 5-7.
\textsuperscript{241} Both the Senate and House Committee hearings had a great deal of similar testimony. Since a copy of the House Subcommittee on Public Lands and National Parks of the Committee on Interior and Insular Affairs report, Public Land Management Policy Part VII: Hearings on S.1872, 97th Cong., 2nd
**Analysis of Testimony For and Against Grazing Extension**

The prepared statements, testimony, newspaper articles, and correspondence from 1981 and 1982 reveal a common problem in land use disputes: each side can evaluate the same piece of land and draw entirely different conclusions about it.

Grazing advocates endorsed the points made by the Utah Farm Bureau. They also consistently observed how little range improvement had occurred since the National Park Service assumed stewardship of the land. Those opposed to any future grazing, on the other hand, argued that Capitol Reef National Park was already alarmingly overgrazed. According to the environmentalists, this overgrazing was responsible for numerous resource depredations and a negative visitor experience.

Throughout their testimony, ranchers and County Commissioners Guy Pace and Dell LeFevre emphasized the hardships that the removal of grazing would impose on the local economy. They even cited a Colorado State University study suggesting that removal of grazing privileges in Capitol Reef would cost the local economy over $500,000.\(^{242}\) Russell Butcher, Southwest regional representative for the National Parks and Conservation Association, disputed these figures. He argued that the $35,000 estimated value of the actual AUMs would constitute the only economic loss.\(^{243}\) The reality probably lies somewhere in the middle.

The ranchers believed that revoking their winter grazing permits would force them out of business, because adjacent BLM lands could not accommodate those extra AUMs. Cattlemen also pointed out that their AUM grazing permits were used in assessing the value of their ranch operations and establishing loan collateral. Therefore, they needed permits for the maximum number of allowable AUMs, even if they were grazing fewer cattle.\(^{244}\) However, many local ranchers were running fewer than 10 cows on Capitol Reef at any given time: it is hard to believe that the loss of 10 cattle would force a ranch to fold.\(^{245}\)

The environmentalists, on the other hand, argued that protecting national park lands was more important than feeding a few cattle. They focused entirely on the AUMs in the park, failing to recognize the impact a rapid phaseout would have on the ranchers who

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\(^{242}\) House Committee, S.1872 Hearings, 10 August 1982, 106.

\(^{243}\) Ibid., 283.


\(^{245}\) A complete list of permittees and the number of AUMs per year is provided in the Annual Summaries of Livestock Grazing for Capitol Reef National Park, found in the Capitol Reef Resource Management and Superintendent’s Files.

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depended on the winter range within the park. Nor did the conservationists recognize the intangible impact these changes could have on rural people struggling to maintain their traditions.

Another related issue was the declining economy of south-central Utah. Over the previous decade, the region had been denied two coal-burning power plants (one on the Kaiparowitz Plateau and the other just east of Capitol Reef's boundary) and a large coal strip mine just east of the Burr Trail switchbacks. The loss of these projects caused many locals to emphasize the traditional economic security of livestock grazing on the public domain.\textsuperscript{246}

Perhaps the most subtle, yet divisive, issue that separated the ranchers from the conservationists was the manner in which each side looked at the range in question. The environmentalist saw dirtied water supplies, miles of trampled soil and close-cropped vegetation, invasive exotic species, and heaps of cow dung in prime camping spots.\textsuperscript{247} The cattleman looked at the same range and, knowing its condition in earlier years of uncontrolled grazing, saw that the range was steadily improving. As to the water issues, livestock supporters argued that piping more water into the allotments would allow cattle to spread out more, and would actually contribute to an increase of wildlife in the park. The ranchers and the range conservationists did not recognize that multiple use and range developments were incompatible with the single use, preservationist mandate of the National Park Service and its supporters.\textsuperscript{248} Rep. Hansen observed, "I have a hard time believing that a few white-faced cattle in any way take away from the aesthetics of this beautiful area." \textsuperscript{249}

Environmentalists, on the other hand, saw the devastating results of overgrazing that had occurred in previous decades, and blamed the current ranchers for the problem. Both sides talked in terms of values and aesthetics. Yet, the values came from such different perspectives and were so deeply, emotionally entrenched that compromise would be virtually impossible.

In such cases, non-biased, extensive studies are needed to allow an arbitrator, in this case Congress, to weigh the arguments. During the hearings in 1982, however, the only studies completed were sponsored by the respective sides. The ranchers pointed to their economic study and the positive range analysis of range ecologist James Bowns.\textsuperscript{250} The environmentalists hailed a study done by Stanley Welsh, who strongly reprimanded the

\textsuperscript{246} House Committee, S. 1872 hearings, 244.

\textsuperscript{247} Ibid., 278-284.

\textsuperscript{248} Ibid., 285-287.

\textsuperscript{249} Congressional Record, 97th Cong., 2nd sess., 1982, 128, pt. 18:24273.

\textsuperscript{250} House Committee, S. 1872 Hearings, 128-136.
livestock industry for turning Capitol Reef into a virtual wasteland.\textsuperscript{251} (This report was actually requested by Superintendent Hambly to bolster the National Park Service position at the House hearings. For reasons unknown, though, it was not endorsed at the hearings and was withheld from public review.\textsuperscript{252}) It also did not help that the National Park Service was endorsing the legislation to extend grazing while also suggesting that grazing was incompatible with current park management and visitor appreciation.\textsuperscript{253}

In the end, each side made valid points during House and Senate testimony, but left no clear understanding of the underlying economic and resource impacts of grazing at Capitol Reef. House Subcommittee Chairman John Seiberling concluded, "Testimony presented at the hearings convinced the subcommittee that there was insufficient information regarding the problems of grazing within Capitol Reef National Park to overturn the existing law."\textsuperscript{254}

Therefore, the subcommittee proposed amending S. 1872 to delay the start of the grazing phaseout for five years, until 1987.\textsuperscript{255} In the interim, the National Park Service, in cooperation with the Bureau of Land Management, would contract with the National Academy of Sciences to study the unresolved issues. These studies would document resource impacts of grazing and evaluate alternatives to a grazing phaseout. The five-year delay was later expanded to 10 years, and this amended bill became P.L. 97-341 on October 15, 1982.\textsuperscript{256}

In the 1981-82 struggle to end grazing at Capitol Reef, ranchers won a major victory by postponing the grazing phaseout for 10 years. Even so, the future of grazing privileges within Capitol Reef was still far from certain, as the delay gave park managers and grazing opponents time to regroup. Had S. 1872 passed as originally worded, nearly all areas of the park might have been grazed well into the next century. Instead, the National Park Service now had 10 years to produce studies showing that grazing was incompatible with its preservation mission and should be quickly phased out.

\textbf{What Happened To All Those Studies?}

Although the end of 1982 brought a temporary cease-fire in the legislative battle over grazing phaseout, new encroachments threatened Capitol Reef National Park. Coal strip mining operations were proposed for the western mesas of the Henry Mountains within
view of the park's South District, and an ambitious oil exploration project was planned for the southwest corner of Capitol Reef. These urgent issues pushed grazing to the side for the next year. Another reason for the delay in implementing P.L. 97-341 was that Congress had made no authorizations to fund its mandated studies by the National Academy of Sciences (NAS). The National Park Service therefore assumed that the funds had to be diverted from existing operating funds.

P.L. 97-341 specified that the studies were to be contracted to the NAS, which would supervise the subcontracting, design, and methodology of the research. As the congressional testimony implied, this requirement was meant to ensure objective research and non-biased results. However, because the work proposed by the NAS was extremely expensive, the project was split into two parts in order to secure funding. Phase I was conducted by the Board of Agriculture of the National Research Council at a cost of $53,000, using funds provided by the Washington office. This first contract called for a committee of experts to evaluate the grazing problem at Capitol Reef National Park by on-site visits, by meeting with interested parties in the region, and by researching the background of the problem through published documents (private, state and federal). From these efforts, the second phase, a long term program, will ultimately provide information to the Congress regarding the phaseout of grazing in the park.

On September 27-29, 1983, that committee of experts met at Capitol Reef to gather information from park managers, Bureau of Land Management officials, local ranchers, politicians, and scientists. The following summer, the Phase I final report -- an excellent summary and analysis of many of the pertinent grazing issues -- was completed. Significantly, the report recommended that 10 interrelated field studies, costing $930,000, be undertaken to address those issues. According to the Phase I Final Report, such an enormous undertaking was necessary to comply with the congressional mandate in P.L. 97-341. It was also needed to "generate new information for use by national park personnel in managing all resources on CRNP, provide more substance for decisions on grazing phaseout on CRNP, and perhaps provide a study protocol for the NPS to use in resolving conflicts at other national parks."

257 See Chapter 15 on Mining and Encroachments.
259 Congressional Record, 24273; House Committee, S. 1872 Hearings.
261 Ibid.
262 Ibid.; Acting Superintendent Richard Newgren to Regional Director, 3 October 1983, Box 3, Folder 8, Capitol Reef National Park Archives.
263 Phase I Final Report, 23.
Unfortunately, the $930,000 price tag was daunting. Because Congress failed to provide funding and the National Park Service determined it could not afford the cost, other options were sought. After a good deal of deliberation, the National Park Service decided to administrate the contracting itself, hiring local universities and small consulting firms to undertake fieldwork and analysis. The National Academy of Sciences, through its National Research Council, kept up with the studies and assisted with the yearly reports to Congress. Thus, at least part of the requirement of P.L. 341 was met. However, while this procedure was a good deal less costly than the original plan, it introduced the appearance of political bias and undermined the unimpeachable objectivity sought by P.L. 97-341. The fact that the studies were coordinated and funded by the National Park Service convinced some grazing proponents that the results could only be biased against them. As a result, the research was largely unacceptable to many local ranchers and livestock supporters, including the Utah congressional delegation.

Thirteen grazing-related resource studies were completed as of 1994. Norman Henderson, former Chief of Resources Management & Science at Capitol Reef, views this accomplishment as one of the most comprehensive natural resource baselines on the Colorado Plateau. These studies provide Capitol Reef managers with an excellent basis on which to make resource management decisions, and they have contributed significantly to an understanding of the ecological systems of the Waterpocket Fold. Thus, while the objectivity of the research has been questioned by some, the studies have nevertheless proven valuable to Capitol Reef National Park.

While the National Park Service was determining how to proceed with the mandated studies, a new conflict emerged between grazing utilization and the proposed wilderness with the national park. In 1984, Guy Pace and the Bureau of Land Management sought park approval to bring bulldozers into the Hartnet Allotment to dredge two stock ponds (constructed in 1971) and improve one spring. Use of motorized equipment and the proposed alterations, though, could not be permitted in the Hartnet, which was proposed and administered by the park as a wilderness area. Both outgoing Superintendent Hambly and incoming Superintendent Robert Reynolds opposed the project for that reason and because of the precedent it would set for other ranchers seeking range improvements.

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264 Henderson, 6.


266 Problems with the reports are discussed in Henderson, 7. The perceived lack of objectivity is brought up by former Superintendent Martin Ott, in a phone interview with the author, 16 May 1984. It is beyond the scope of this study to examine each of the studies completed relating to grazing from 1984 to 1994. These reports are listed Henderson, "Final Resource Management Plan, Capitol Reef National Park," June 1993, Capitol Reef Resource Management and Superintendent Files.

267 Henderson to Culpin, 13 December 1994, administrative history review comments, Administrative History files and notes.
within the park. After a great deal of correspondence, a detailed environmental assessment was completed on the stock pond proposal. Former Superintendent Reynolds recalls that Sen. Garn's office applied significant pressure on the National Park Service to allow the bulldozer into the park. Over the objections of park managers and the National Parks and Conservation Association, the National Park Service finally decided to permit the range improvements under strict limitations and with on-site monitoring. 268

Guy Pace's success persuaded Superintendent Reynolds that a grazing phaseout, of any length of time, had too many political and social variables to make long-range planning possible. It was time once again to re-evaluate the grazing policy of Capitol Reef National Park.


The idea of purchasing the permittees' AUMs at Capitol Reef first emerged in 1969. Only seven months after the monument was expanded to over 250,000 acres, Superintendent William F. Wallace proposed that the National Park Service purchase all of Capitol Reef's permitted AUMs. Wallace argued:

The expenditures of a relatively small amount of money for the existing AUM permits could advance the development of the area by approximately 10 years. It would also eliminate to a great extent the adverse feeling of the local residents as it now exists toward the National Park Service. If the AUMs are not purchased the financial loss to some smaller operators would be disastrous to their livelihood. 269

While the plan seemed feasible at the time, there were several factors working against it. First, it was believed that the courts would not allow the federal government to purchase grazing privileges. Second, Regional Director Frank Kowski, with counsel from a departmental solicitor, believed that it was not a good idea to suggest such a plan while the controversy over the monument expansion was at its height. Kowski felt that there was already a gentlemen's agreement with the local ranchers and the Bureau of Land Management to phase out the grazing within 10 years. According to the regional director, to "take any other approach at this time would be a breach of faith with both the citizens concerned and the Bureau of Land Management." 270


269 Wallace to General Superintendent, Southern Utah Group, 25 August 1969, L3019-Stock Driveways, Capitol Reef Historical Superintendent's Files.

270 Kowski to General Superintendent, Southern Utah Group, 29 August 1969, Ibid.
In 1969, the legal aspects of a buyout of existing AUMs had not been determined. Yet, the idea that ranchers and the BLM would prefer a 10-year phaseout to actual reimbursement for permits is hard to accept. There was the possibility that, due to the furor over the expansion, the local livestock interests would have opposed any immediate attempt to remove the cattle from the monument. Most likely, the National Park Service, which was on the defensive over the expansion controversy, did not want even to think about any new kind of grazing policy until park status was assured.271

After this brief correspondence in 1969, there is no evidence that a buyout of existing permits was again considered until 1984. Then, in the National Academy of Science's Phase I report, the possibility of purchasing the AUMs was again proposed:

One option is the immediate (1984) buyout of the grazing permits by the National Park Service (NPS), which would conserve the natural and historical features of the park and compensate the ranchers for their lost animal unit months (AUMs). The costs for compensation of lost grazing would have to be negotiated by the NPS. Although the committee did not study this option in detail, it would seem to be more cost effective than option one [which was the 10 studies for $930,000].272

This option was rejected in favor of the 10-study plan mentioned earlier. Then, after the episode in 1985 in which a bulldozer was allowed into a potential wilderness area to fix stock ponds, Superintendent Reynolds began to investigate the possibility of buying out the remaining permittees. Ironically, it was during an inspection of the South Desert stock pond work with Reynolds that Guy Pace himself brought up the idea of at least a partial buyout. Regional Director Mintzmyer agreed that this proposal was worth pursuing. In a briefing statement from Mintzmyer to Director William Penn Mott in November 1985, three alternatives were discussed. These were: maintain the status quo, with the National Park Service coordinating the recommended studies; work with the BLM to find alternative grazing allotments; or have the National Park Service directly purchase in-park grazing privileges on a willing seller basis.273 The cost of buying all the AUMs was estimated at $150,000 to $200,000, approximately one-fifth the expense of the NAS studies. Yet even if the financial incentive was obvious, the legal authority to purchase the permits was still uncertain.274

271 A Master's thesis by Keith J. Chapman, formerly with the Utah State University Extension Services in Wayne County, studied the effects of the monument expansion on local ranchers. While his survey was incomplete and conclusions vague, it is clear that several ranchers were resigned to the fact that the phaseout would be completed by 1982, and that they were beginning to make alternate plans. See Chapman, "Effects of Land Use Change" (Master's Thesis, Colorado State University, June 1970).

272 Phase I Final Report, 23.

273 Mintzmyer to NPS Director, 8 November 1985, File Phase Out #2, Capitol Reef Resource Management Files. Reynolds to Culpin, 10 August 1994.

274 Ibid.
Superintendent Reynolds recalls that he faced significant opposition on this matter from within the National Park Service. This opposition was based on three arguments:

1) Permits were regarded as a privilege, not a right, and therefore could not be purchased.

2) There was no legal authority for the federal government to make such purchases.

3) Even if authority had existed, purchases would set an inappropriate precedent that could be used to force the purchase of AUMs in other parks.

Despite this internal opposition, Reynolds decided to explore the possibility of purchasing the park's AUMs rather than waiting to see what would happen in 1994. In order to proceed with this course of action, however, the superintendent needed a departmental solicitor's "specific opinion as to the legality of the NPS, under current law, acquiring the grazing permits within Capitol Reef National Park through fee simple purchase." 275

After a great deal of correspondence and investigation by Reynolds and park Chief of Resource Management Norman Henderson, a favorable solicitor's opinion was issued in July 1987 allowing the proposed buyout to proceed. The opinion argued that grazing permits could be purchased specifically at Capitol Reef due to the wording of P.L. 97-341. It seems that the compromise legislation calling for a 10-year delay actually converted noncompensable grazing privileges, held under a standard BLM permit, to a compensable right. 276

This opinion was submitted just as Capitol Reef National Park was welcoming a new superintendent. Martin C. Ott was an expedient appointment: a career park service man with a Southern Utah ranching heritage. Since he was comfortable and respected both within the National Park Service bureaucracy and among the rural, Mormon ranching communities of south-central Utah, Ott was ideal to lead the final push toward compromise. When the new superintendent arrived at the end of August 1987, the time was finally ripe for proceeding toward resolution of the grazing conflicts that had tormented Capitol Reef for nearly half a century.

Superintendent Ott, with the assistance of the Bureau of Land Management and input from local ranchers, proposed a three-part plan in October 1987. This plan called for:

1) purchase of 783 AUMs in three sensitive allotments (Waterpocket, Muley Twist and Chimney Canyon) where resource damage and visitor use conflicts are well documented; 2) purchase of additional AUMs in other allotments on a 'willing seller' basis; and 3) after purchase of all AUMs in

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275 Reynolds to Culpin, 10 August 1994. National Park Service (unknown author) to Solicitor, Draft 20 January 1987 and Interior Department, Rocky Mountain Region, Solicitor to NPS Director, 15 July 1987, Ibid.

276 Regional Solicitor to Director, 15 July 1987.

337
sensitive allotments, support legislation that would gradually phase out remaining grazing interests.\(^{277}\)

In a 1994 interview, Ott discussed his motivation for proposing this buyout plan. According to Ott, many in the National Park Service had a "strong feeling" that there would be a revived effort in 1994 to extend grazing throughout the park. On the other hand, many of the local ranchers feared that grazing would be phased out immediately without any kind of compensation. Thus, apprehension on both sides made some kind of compromise all the more likely.\(^{278}\) Furthermore, Ott wanted to avoid the kind of conflict that historically had driven grazing policy at Capitol Reef. He wrote:

> With no new legislation the scheduled termination of grazing in 1994 [P.L. 97-341] will again signal a polarization of interests and the rekindling of emotions that will result in the park and park programs being alienated from the local communities. Based on the fact that the park's research studies will likely be subject to criticism, and supposing little or no change in the political scene, it is probable that legislation that demonstrates understanding of and empathy with the local culture will pay huge dividends in public relations and in gaining support for other park activities.\(^{279}\)

Key to this plan were the needs to buy the most sensitive allotments in the southern part of the park and to provide some kind of long-range guarantee to those ranchers who did not wish to sell. The specified allotments in the South District and just north of the visitor center were those most heavily utilized by the park's backcountry visitors. As such, they were the sources of greatest conflict with approved management plans emphasizing resource preservation and visitor appreciation. Ott determined that these allotments must be sold in their entirety or the whole deal was off.\(^{280}\)

It took Ott almost a year to get local ranchers to agree to this point of the plan. Stan Adams, the Henry Mountain Resource Area Manager out of Hanksville, Utah, was particularly instrumental in persuading the ranchers to agree to selling these allotments and most of the others in the park.\(^{281}\)

The other crucial plank of the plan was to assure those ranchers declining to sell that they would not immediately be phased out. In making preliminary inquiries with local ranchers and politicians, Superintendent Ott discovered that many stockmen were willing to sell their park AUMs so long as those who did not sell were granted a more gradual phaseout.

\(^{277}\) Superintendent Ott to Files, 25 February 1988, File L3019, Capitol Reef Superintendent's Files.

\(^{278}\) Martin C. Ott, telephone interview with Bradford Frye, 16 May 1994, tape in Administrative History files and notes.

\(^{279}\) Ott to Files, 25 February 1988.

\(^{280}\) Ott interview.

\(^{281}\) Ibid.
This phaseout would be similar to the one sought by the ranchers back in 1971 and 1982.\textsuperscript{282}

One of the key reasons for this provision was the fact that some stockmen, including spokesman Guy Pace, were almost solely dependent on park lands for their winter grazing needs. In the tight-knit, interdependent communities of Wayne and Garfield Counties, Ott observed:

There is a strong indication that there are many permittees willing to sell at this time if there is some assurance that the interests of their neighbors will not be compromised. In this same light, the Utah Congressional Delegation and the directors of the Utah Farm Bureau have clearly stated that they will support the park's initiative as long as the gradual phaseout for ranchers who choose not to sell is part of the package. Failure to support this part of the plan could, of course, result in direction from Congress to cease purchasing AUMs and continue on the course directed in P.L. 97-341.\textsuperscript{283}

Before the local ranchers, lobbyists, and Utah congressional delegation would support the buyout, ranchers (such as Guy Pace) who were not willing to sell had to be assured of the long-term grazing phaseout. At the same time, several environmental organizations resisted what they viewed as a compromise of the national park's resources, and advocated gambling on a stricter phaseout in 1994. Apparently, some who opposed the compromise were also found on the staff of Regional Director Mintzmyer. Despite persistent advice to reject the proposal, Mintzmyer nevertheless stuck to her original promise to Ott, supporting the entire package through to the end.\textsuperscript{284}

According to Superintendent Ott, the entire proposal was "a crap shoot," though "not as big a gamble as one might think." First, Ott obtained commitments from the ranchers to sell in those three problematic allotments. Next, he ascertained from talking with various advisory boards and local people that many of the other ranchers were willing to sell, as well. Knowing that most of the ranchers would go along with the plan, Ott could then agree to an extended phaseout for the few who chose to retain their grazing rights. Armed with this information, Ott would approach the regional director and Utah congressmen and senators for funding to proceed with the buyouts.\textsuperscript{285}

Once the Utah delegation approved spending National Park Service money on the buyout, Sen. Garn and Rep. Hansen successfully attached a rider on the Fiscal 1988 Interior Appropriations Bill. Their rider would give the non-selling ranchers and their immediate

\textsuperscript{282} Ibid; Ott to Files, 25 February 1988.

\textsuperscript{283} Ott to Files.

\textsuperscript{284} Ott interview.

\textsuperscript{285} Ibid.
families the right to continue grazing in the park (see Appendix B).286 Those few ranchers
would thus have a chance to phase out their winter cattle operations much more gradually,
giving them time to explore alternatives to their park allotments. Those choosing to sell,
on the other hand, could use their buyout money to purchase AUMs in neighboring
allotments, or invest it in some other manner.

By the end of 1989, the buyout program had successfully relieved the park of more than
3,000 AUMs, or 69 percent of the total permits, at a cost of approximately $220,000.
The 37 AUMs in Fishlake National Forest were transferred administratively by an
allotment realignment. The only remaining livestock grazing in the park as of January 1,
1991 consisted of 78 AUMs in the extreme northern Cathedral Allotment, 972 AUMs in
the Hartnet, 482 AUMs in the Sandy 1 and 3 Allotments, and seven AUMs in the Torrey
Town Allotment.287

The plan also called for a continuing role for the Bureau of Land Management in actively
monitoring grazing on the remaining park lands. Superintendent Ott had three reasons
for advocating this arrangement. First, he wished to continue the cooperative agreement
between the sister agencies because he believed that such successful relationships were too
rare and should be maintained wherever possible. Second, he believed that no one in the
National Park Service had the grazing expertise of the BLM’s professionals. Finally, he
felt that the dramatic grazing reductions eliminated the need for a full-time, year-round
range conservationist in the park.288

The entire plan, however, would have been unsuccessful had money not become available
to fence cattle out of most of the park: permitted or not, cattle on nearby allotments
would simply wander across the boundaries. Fencing would also prevent other cattle from
trespassing on park lands, and would thereby further reduce the livestock impacts that
previously occurred.289 Throughout the entire grazing history of Capitol Reef, the lack of
fencing was probably the underlying cause for much of the conflicts and hard feelings
among ranchers, Bureau of Land Management personnel, and park staff.

While one could look narrowly at and find fault with any one part of the final buyout
policy, in total this was the first grazing policy at Capitol Reef that successfully relieved
pressure on the range and actually improved community relations. The buyout was
initiated by a determined Robert Reynolds and successfully implemented by Martin Ott.
Through all the unenforceable, conflicting grazing policies established at various times by

287 "Capitol Reef National Park, Livestock Grazing," Draft Briefing Statement, February 1989,
Briefing Statement File, Capitol Reef Resource Management Files; NPS Allotment Status, 1 January
1991, Ibid.
289 Ibid.; "Livestock Grazing in Capitol Reef National Park," National Park Service Briefing
National Park Service managers, and despite all the resistance by local people, there finally had come a plan that was agreeable to both sides.

**Current Status and Conclusions**

**Capitol Reef Grazing: 1994**

The Bureau of Land Management continues to monitor the grazing permits inside the park boundaries. This is done in consultation with the park’s superintendent and the chiefs of the divisions of interpretation, visitor protection, and resource management and science. In 1994, a long-time local rancher and Capitol Reef employee, Keith Durfey, was hired by the park as a range technician to work with the BLM in monitoring grazing inside the park boundaries. With his local connections, Durfey has arranged the buyouts of additional AUMs. In 1993, there were still six grazing allotments in the park: Harnet (972 AUMs); Sandy 3 (410 AUMs); Cathedral (78 AUMs) Sandy 1 (72 AUMs); Sleeping Rainbow (48 AUMs); and Torrey Town (9 AUMs). Since that time, the National Park Service has acquire the AUMs in the Sandy 1, Sleeping Rainbow, and Torrey Town allotments. Park managers hope that National Park Service personnel will soon be able to assume all grazing monitoring and regulation of the remaining permits within Capitol Reef National Park.

Relations between the park and the local communities appear to be improving. A formal educational outreach program, designed and operated by a permanent education specialist, was initiated in 1992. Other outreach programs include Harvest Homecoming (where local craftsmen are invited to demonstrate their skills and knowledge in historic Fruita), and interpretive activities at the refurbished Gifford House. These programs are doing a great deal to foster positive, constructive relationships with the local communities.

Yet, as long as grazing remains within the national park, there will be conflicts. For example, in early 1990 prominent rancher Karl Don Taylor asked to trail his cattle down the park’s Halls Creek drainage to an allotment in the bordering Glen Canyon National Recreation Area. His request was denied by Superintendent Ott because of the stipulations of Taylor’s sale of AUMs in the lower Waterpocket Allotment, and because Halls Creek was not a recognized stock driveway. Angry over this decision and related grievances with the National Park Service, the Bureau of Land Management, and the U.S. Forest Service, Taylor wrote a bitter letter of protest to Sen. Jake Garn. According to Taylor, the federal land managers’ policies demonstrated “an insidious program advocating the removal of federally controlled lands out of the multiple use concept.”

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While Garn's response is undocumented, Taylor's actions suggest a continuing potential for conflict between the residents of south-central Utah and the federal agencies that control much of the land around them.

On the other hand, many within the environmental movement and even some National Park Service personnel refuse even to hear the ranchers' concerns (and vice versa). This all demonstrates that, while the issue of grazing at Capitol Reef has come a long way, it more rough road lies ahead.

**Lessons Learned**

Livestock grazing has had a profound effect on the desert landscapes now within Capitol Reef National Park. Clearly, the present ranchers and park and BLM managers are not responsible for those effects. Improper grazing management combined with the often incompatible policies of the National Park Service took years to create the environment that now exists. The process was gradual and continual. It was not unavoidable.

It now appears that most of the documented resource damage -- including overgrazing, erosion, and the introduction of exotic plant species -- occurred between 1900 and 1950. Despite the teachings and beliefs of the Mormon Church, its settlers began to alter the landscape almost upon their arrival, with their agricultural and development activities. Most of the environmental damage occurred when huge herds of cattle and sheep were allowed to roam the ranges of the Waterpocket Fold in unrestricted and unmonitored competition. Market value and climatic conditions determined the carrying capacity of the range; ranchers, especially the sheep herders, turned a blind eye toward the resource damage around them.

Even after the beginnings of federal range regulations, first with the U.S. Forest Service and then with the Taylor Grazing Act, the lack of understanding about range conservation techniques and dependence on rancher endorsements limited any real improvement for several decades. When slow change finally did begin, with the Bureau of Land Management implementing range reductions and rest/rotation systems, it was often too late for the range to recover.

On the other hand, the National Park Service arrived late on the scene, after all the land had already been allocated. With little understanding of local conditions or attitudes, the National Park Service officials attempted to manage grazing by unilateral policies that were neither enforceable nor acceptable to the livestock interests. Insulated by political boundaries, National Park Service officials attempted to protect the monument or park lands with little understanding of what was happening on the outside.

The conflicting attitudes of the livestock and national park interests came to a head with the unexpected expansion of Capitol Reef National Monument in 1969. By incorporating an additional 190,000 acres of grazing lands, the National Park Service inherited an enormous administrative headache. Perhaps if the investigative process had not been as secretive or rushed as it was, the boundaries of Capitol Reef might have been laid out to
exclude a great deal of the grazing land and its related problems. On the other hand, the question needs to be asked: Would the starkly beautiful northern and eastern flanks of Capitol Reef soon be free of adverse grazing impacts had the monument’s size been smaller? In any case, the monument was soon made by Congress into a national park, and grazing was to be phased out within 10 years.

Arches and Canyonlands National Parks, created at about the same time and working under the same 10-year phaseout, had few problems with former grazing lands. Capitol Reef, however, had too many AUMs operated by too many ranchers with disparate permits to allow the issue to quietly fade away. The 10-year phaseout was appealed to Congress. At this point, the National Park Service hierarchy determined that, with little concrete or non-controversial information to oppose a grazing extension, it may be more politically expedient to accept the inevitable. Many in Congress, however, wanted that unbiased information. Thus, the grazing phaseout was delayed and studies were begun. When the studies proved too costly, the National Park Service compromised the objectivity of those studies by directly assuming their coordination and funding. At the same time, the bitterness over past park policies eased and the local economic conditions began to change. Livestock grazing in Capitol Reef was simply not as important as it had been in the past. Ironically, it was the compromise of 1982, delaying the grazing phaseout, which actually sped up the entire process. The compromise turned previous “privileges” into rights, which ultimately allowed the National Park Service to begin the systematic purchase of AUMs on a willing-seller basis.

By the late 1980s, conditions were finally ripe for a compromise. With Superintendents Robert Reynolds and Martin Ott at the helm, a complicated plan was steered through a sea of objections, eliminating much of the park’s grazing, particularly where it most conflicted with park visitation. Ranchers choosing not to sell were given assurances that grazing would not be phased out in their lifetimes or those of their immediate families. Almost everyone was, if not happy, at least relieved.

While living and working at Capitol Reef in the early 1990s, this author perceived a slowly changing attitude between the park and the local communities. The deep scars of resentment and animosity on both sides were beginning to heal. In order to encourage that healing process to continue, both sides must recognized that they made mistakes in grazing management. The traditional practice of loosing large, competing herds on a desert range forever altered the landscape. Yet, in attempting to correct the problems, the policies of the National Park Service often did more to stimulate conflict than to resolve it.

On the other hand, the positive steps toward change must also be acknowledged. In the last few decades, improvements have been made that are revolutionizing the livestock industry. The technical information and extensive training that the federal range managers and the ranchers, themselves, have acquired have gone a long way to changing those old, destructive grazing habits. These new techniques, including rest/rotation systems and more intensive monitoring and moving of livestock, must be encouraged to continue.
On its end of the issue, the National Park Service and its sister agencies finally realized that compromises could ensure long-range integrity while also appeasing the local communities.

Yet, even today one constantly reads about the conflicts between ranchers and environmentalists throughout the West. Our evolving philosophy, from an emphasis on land utilization to one of land stewardship, is still taking shape.
Figure 34. Utah Grazing District #5.
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CHAPTER 13

WATER RIGHTS AND WATER QUALITY AT CAPITOL REEF

In the Waterpocket Fold country, water is never taken for granted. With only three perennial streams cutting through this rugged uplift, there are relatively few precious acres of arable land that can support long-term occupancy. It is, then, not surprising that the primary need of all residents, from the earliest ranchers and settlers to modern National Park Service managers, has been sustaining water rights and quality. In Fruita and elsewhere in the Waterpocket Fold country, water was used according to the Western tradition of prior appropriation. This tradition gives preference to those who make the first claims and who use their water for beneficial purposes, such as growing crops. For the first settlers, cooperative irrigation was made possible by common culture and goals. When the National Park Service arrived in the area, its representatives had to learn to strike a delicate balance between neighborly cooperation and asserting the agency's own claims to acquired priority water rights. For the most part, the National Park Service has been successful in maintaining such a balance.

The rights to use the lower Fremont River were first decreed in 1935, just prior to the creation of the national monument. Those 1935-decreed water rights, in keeping with Utah tradition, established the amount of water to be used by Fruita residents and later by the National Park Service. The National Park Service acquired its first small percentage of Fruita's water when it purchased the Alma Chesnut property in 1943. From that time until the acquisition of other Fruita inholdings in the 1960s and 1970s, only a few notable water disputes occurred.

Once the National Park Service controlled most of Fruita's water, the next step was to assert priority rights against a variety of threats. A proposed dam east of the monument, upstream attempts to divert Sulphur Creek water, and ongoing water rights adjudication kept managers busy throughout the 1960s. Also during this period, a water treatment plant began providing Fruita residents with its first reliable culinary water supply.

The 1970s brought downstream attempts to impound the Fremont River for a proposed power plant. The decade also saw substantial improvements to Fruita's irrigation system and, once again, problems with unauthorized uses of Sulphur Creek.

In the 1980s, an adjudication of water rights was initiated by the State of Utah (Civil No. 435). This adjudication, which is ongoing, includes that portion of Capitol Reef National
Park lying within the Fremont River corridor. The decade ended with a new dam proposal, this project to be located upstream near Torrey. The 1990s began with efforts to improve the park's culinary water supply by digging a well upstream of the water treatment plant, and with renewed threats to the quality and integrity of the Fremont River through the park.

Meanwhile, research continues on available water rights and quality for the rest of Capitol Reef National Park, and on documentation of tinajas in the southern Waterpocket Fold.

**Doctrine of Prior Use Comes to Utah**

During the 19th century, the industrial revolution in the East and the mining and irrigation frontiers throughout the West combined to change American water law from traditional English riparian rights to one of prior appropriation. Under the old riparian system, those who used a river's water had to own property next to the river and return whatever water was used. Water diversions for a textile mill, mining sluice box, or an irrigated field were not permissible under traditional riparian law. By the mid-1800s, however, there were growing needs in the U.S. to divert water in manners and for purposes that would reduce the river's flow. Lack of regulation raised the possibility that any upstream user could dam or divert an entire river, thereby depriving all downstream claimants of water.¹

In order to establish more practical rules of water use, a series of state laws and court cases institutionalized the Doctrine of Prior Appropriation throughout the West. According to this new doctrine, the right to use a river's water was based on the earliest claims, thus the saying "first in time, first in right." It also stipulated that the water taken had to be of beneficial use. Since it was not beneficial for one claimant to take all the water when he needed only a small amount, a river's water was usually apportioned according to minimum use requirements. Western states' water laws were therefore a combination of priority claims and decreed rights based on need.²

During the Mormon settlement of Utah, the Doctrine of Prior Appropriation was combined with cooperative irrigation projects. In the first years of the Salt Lake settlement, ditches and canals were dug to divert water for culinary and irrigation purposes. Economic historian Lenard Arrington explains:

> When a group of families found themselves in need of water (or additional water) to irrigate their farms and gardens, the bishop arranged for a survey and organized the men into a construction crew. Each man was required to furnish labor in proportion to the amount of land he had to water. Upon completion of the project the water would be distributed by a ward

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² Ibid.
watermaster in proportion to his labor. The labor necessary to keep the canal in good repair was handled in the same way.\(^3\)

When Utah became a territory and, in 1894, a state, this system of water rights and usage was confirmed by the state legislature and administered by the county courts. Based on their traditional importance, the cooperative water companies that largely determine water usage throughout the state continue to be recognized by Utah.\(^4\)

By the time the first settlers of the Waterpocket Fold country arrived, however, the grasp of church authority had been loosened by time and distance. This new wave of settlers, while still staunchly Mormon, sometimes had to cooperatively build, use, and repair irrigation ditches without the guidance of a ward bishop. Even when a bishop was in control, he usually worked in one isolated settlement. Long distances between these settlements meant that a river such as the Fremont could easily be over-appropriated. Thus, sooner or later, the county court would have to adjudicate priority and minimum use claims. Before this could be done, however, each of the river's users had to be able to verify their oldest and greatest use.\(^5\)

**Early Water Users of the Waterpocket Fold**

The first permanent settlement in what is now Capitol Reef National Park was built on Pleasant Creek. In April 1883, Ephraim Hanks and his family settled on land now occupied by the remnants of the Sleeping Rainbow Ranch, and soon began to divert water for crops and an orchard.\(^6\)

Fruita was the next area in the park to use irrigation. According to final homestead affidavits, Nels Johnson was the first to build a house, in 1886, near the junction of the Fremont River and Sulphur Creek. He moved to his property the next year and in 1888 began cultivating about 17 of his 160 acres, seven of which were in orchards.\(^7\)


\(^4\) Ibid.


\(^7\) Homestead Act Final Proof Papers, Nels Johnson, Homestead Application No. 12513, Final Certificate No 5648, Sections 14, 22, and 23, Township 29 South, Range 6 East, Salt Lake City Land Office (25 January 1897), Box 136, RG 49, National Archives, Suitland, MD.
Holt settled in the Fruita area around 1892-93. The other two original Fruita homesteaders, Elijah Cutler Behunin and his son, Hyrum, arrived in 1893 and 1895, respectively. By the time the first official survey mapped the Fruita area in 1895, there was one noticeable canal, which evidently served the Sorensen and Johnson farms on the south side of the Fremont River and one large field or orchard straddling Sulphur Creek.

By the turn of the century there was a well-established system of ditches and canals throughout Fruita, no doubt built and maintained by all who used them. The draft 1993 Fruita Cultural Landscape Report states:

In order to supply the necessary flow, the main intake was located along the Fremont River, approximately two miles from its confluence with Sulphur Creek. From this point, open ditches and flumes were constructed to carry water along the east face of Johnson Mesa, to the estimated 80 acres of irrigated lands. Gates controlled flow into the fields. The fields themselves were watered by furrow irrigation. In this system, water was carried from the main ditch to a series of laterals along the edges of the fields, and finally into furrows which channeled water through the fields in shallow ditches, spaced between rows of fruit trees, virtually flooding the land.

Throughout the early years when land was sold in Fruita or at Pleasant Creek, the customary, though unspecified, share of water for agricultural or culinary use was attached to the deed. The share was transferred with the deed under the mutual consent of the other users. This was so because state law was derived from the traditional Mormon position that land and water rights were inseparable, and also because without the water to make it arable, the land was only pretty scenery. Yet, water allocation and ditch repair responsibilities must have been confusing at times. After all, there was a fairly

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8 Homestead Final Proof Papers, Elijah Cutler Behunin, Homestead Application No. 12760, Final Certificate No 7026, Section 15, Township 29 South Range 6 East, Salt Lake City Land Office (1 June 1901), Box 149; Hyrum S. Behunin, Application No. 12761, Final Certificate No. 7746, Section 22, (29 October 1904), Box 159; Leo R. Holt, Application No. 12978, Final Certificate No. 6137, Section 14, (8 May 1899), Box 136, all in RG 49, National Archives, Suitland, MD. Also see O'Bannon, "Historic Resource Study," 24-27.

9 1895 Survey Plat, published 1896, Drawer 3, Folder 2, Capitol Reef National Park Archives.


11 The original deeds and affidavits are recorded with the Wayne County Clerk, Loa, Utah. Examples can found among the copies of deeds and affidavits found in File L54-Dockets, Capitol Reef Superintendent's Files, Administrative Annex, Capitol Reef National Park.
rapid turnover of property owners, a large percentage of renters or tenants, and the fact that not everyone lived full-time in Fruita.12

1935 Bates Decree and 1937 Tanner Report

From the turn of the century to the early 1930s, small, cooperative irrigation systems like Fruita's could be found all along the Fremont River. Yet, while there was apparent agreement within each settlement as to who deserved water, there was no such understanding among communities. This problem became particularly acute during the severe droughts of the 1930s, when the Fremont River was often reduced to a muddy trickle before reaching the lowest downstream users. In a 1935 effort to gain a guaranteed share of the lower Fremont River, the Hanksville Irrigation Company filed suit in Wayne County against upriver users.13

On July 15, 1935, Judge Nephi J. Bates of Utah's Sixth District Court for Wayne County decreed the water rights to the lower Fremont River. Seven residents of Fruita, Clarence Mulford, Dewey Gifford, William Chesnut, Alma Chesnut, Merin Smith, M. V. (Tine) Oyler and Dan Adams, were granted eight cubic feet per second (c.f.s.) of water from the Fremont River and its tributaries. The Fruita water was classified by Judge Bates as part of the total 56.09 c.f.s. of primary rights. This meant that Fruita's irrigation water was guaranteed due to priority claims and demonstrated beneficial use. Also given priority rights were the Hanksville Canal Company and the Caineville Irrigation Company. On the other hand, the Torrey Irrigation Company was judged to have only a secondary right to its 35 c.f.s. of irrigation water. This meant that the Torrey users could divert water only after all other downstream users, including Fruita, had taken their shares.14

Besides the specific water allocations, Bates also decreed that each party named in the case was to construct state engineer-approved weirs to keep accurate accounting. He wrote:

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14 Decree, Hanksville Canal Company v. Torrey Irrigation Company, Sixth Judicial District Court of the State of Utah, Loa Utah, 15 July 1935, photocopy found in File L54-Dockets, Capitol Reef Superintendent's Files.

The Findings of Fact and Conclusions of Law are not found in the L-54 Docket file but may possibly be located in the Wayne County Courthouse in Loa. These documents may shed light on the specific priority claims for each water user.
[All parties] thereafter shall maintain and keep all dams, headgates, flumes, canals, and other means by which said waters are diverted, conveyed, or used, together with said weirs, in a good state of repair, to the end that no unnecessary leakage shall be occur, and that the waters shall be economically applied to the user for which they are awarded.\textsuperscript{15}

In other words, irrigation water was to be used for irrigation, and the diversion canals and ditches were to be maintained to prevent undue waste or risk the possible forfeiture of one's water rights. Judge Bates also stipulated that a water commissioner would be hired to monitor each weir and the use by each customer on the lower Fremont River.\textsuperscript{16} Over the next decade, the various property owners in Fruita finished the legal deeding of water shares among themselves and thus finalized, for the time being, who was entitled to how much water.\textsuperscript{17}

The Bates Decree was the foundation on which all later water rights disputes and allocations of decreed water were based. It should be pointed out, however, that this case dealt only with the Fremont River between Torrey and Hanksville. The use of Sulphur, Pleasant, Sand, and Deep Creeks, which flow into the Fremont within or east of the Waterpocket Fold, was not specifically addressed in this court case.\textsuperscript{18}

Freeman Tanner was hired as the second part-time water commissioner in June 1937. It is in his report covering the period of June 10 to July 10, 1937, that the specific breakdown of Fruita's 8 c.f.s. water rights is found. Based on a percentage of irrigable acres, Clarence Mulford was decreed 1.77 cubic feet per second from the lower Fremont River to water; Dewey Gifford, 1.10; William Chesnut, 1.38; Alma Chesnut, .66; Merin Smith, 1.28; Tine Oyler, 1.37; and Arvil Mott, .44 c.f.s. While the total acreage listed for all of Fruita was 181 acres, the precise amount of irrigated acreage was not listed.\textsuperscript{19}

The most frustrating part of the job for Tanner was that few adequate measuring weirs could be found. According to the water commissioner, frequent floods had made it uneconomical to invest in expensive weirs, since whatever was built was usually washed away in the next flood. Used instead were crude diversion dams made of rock and brush, which allowed the water to wash under or through the weirs and which made accurate readings impossible. Tanner, however, did note that new weirs were distributed and should be in place by 1938.\textsuperscript{20}

\begin{itemize}
  \item \textsuperscript{15} Ibid., 2.
  \item \textsuperscript{16} Ibid., 3.
  \item \textsuperscript{17} See copies of deeds in File L-54-Dockets, Capitol Reef Historic Superintendent's Files, Administrative Annex, Capitol Reef National Park.
  \item \textsuperscript{18} Ibid.
  \item \textsuperscript{19} Tanner Report, table of water decreed, used and land irrigated.
  \item \textsuperscript{20} Ibid., 6-7.
\end{itemize}
But all of the lower Fremont River's assigned users had a more immediate problem. While the amount of water allocated to the various primary and secondary users was usually adequate but for a few short periods in June and July, there was not enough water for Torrey's secondary rights or even for other parties downstream. A table in the Tanner Report shows water flow in the Fremont River through Fruita was only 19.07 c.f.s. on June 24, but through the rest of the summer it was recorded at 31.8 to 33.6 c.f.s. This is far less than the 59.09 c.f.s. decreed by Judge Bates.\(^{21}\)

Thus, at the same time that Capitol Reef National Monument was being created by President Franklin Roosevelt's proclamation on August 2, 1937, the water rights to the future headquarters area were finally apportioned and controlled. However, the problem of too many users and unreliable monitoring continued.

### The Search for Springs and Seeps: 1938-1941

Because the private inholders at Fruita controlled all water rights to the Fremont River and Sulphur Creek, the first efforts by the National Park Service were aimed toward developing other water sources, such as springs or a well. This search for potable water became particularly important when a Civilian Conservation Corps side camp was established below Chimney Rock just west of Fruita in 1938.

In June 1938, National Park Service Engineer Sam D. Hendricks visited Capitol Reef at the request of Zion National Park Superintendent Preston P. Patraw, to search for a "palatable" water supply for domestic use. Of the two springs Hendricks found, the one nearest the planned ranger station (located on a ledge above Sulphur Creek) was nothing more than a slow seep of questionable quality. The Hickman Bridge spring (also called Whiskey and Cove Spring), on the other hand, was promising. According to Hendricks, if a better collection system was used, the sweet-tasting water could easily be piped downhill to Fruita. While this supply was small, it was at least a start.\(^{22}\)

Later that same year, Leon S. Stanley, the foreman for the CCC crew, found a fairly reliable spring "about 700 feet north of the ranger station and about 25 feet lower in elevation." Stanley urged that this spring be immediately "developed and filed on."\(^{23}\) However, the National Park Service took no action on either Hendricks's or Stanley's finds. Instead, the only water source developed during the CCC period at Capitol Reef were some small springs "one quarter mile north west of the camp." Water was collected

\(^{21}\) Ibid., 4, table on gage readings and discharge in second feet.


\(^{23}\) Stanley to Patraw, 14 September 1938, Ibid.
and piped to a 2,300-gallon iron storage tank for use by the camp until it was abandoned in 1942.\(^{24}\)

**Alma Chesnut Water Rights Acquired: 1941-1943**

Since the details of the first purchase of Fruita land by the National Park Service have been discussed elsewhere in this administrative history (Chapter 5), only the information pertinent to water rights will be addressed here.

As Zion National Park Superintendent Paul R. Franke stated, the purchase of Alma Chesnut property would "provide the only water owned by the National Park Service in this national monument and [would] meet water requirements for a modest development of this area for both culinary and irrigation uses."\(^{25}\)

When negotiations between the Chesnuts and the National Park Service began in April 1941, Chesnut claimed to have rights to .79 c.f.s. of Fremont River water instead of the .66 granted in the 1935 Bates Decree. This was based on Chesnut's belief that he acquired an additional .13 c.f.s. when he purchased a small tract of land from Tine Oyler after the decree was issued. Another uncertain issue was how many of his eight acres of orchard land were in the southeast quarter of Section 14, which had washed away in the flood of 1938. If this land was lost because the river changed course or because it could no longer be irrigated, the amount of water granted to Chesnut -- or its potential new owner, the National Park Service -- could be reduced.\(^{26}\)

According to Chesnut's tax records compiled by the National Park Service, the land was irrigated by "a ditch about a mile long, unlined, with a capacity in the upper portion of 3 second feet." The records continued, "It includes an 8" pipe flume across Sulphur Creek which cost about $200 of which Mr. Chesnut paid $96. Four individuals have interests in the ditch above the flume, and three below. Due to duplication in this count, there are actually five individuals with interest in the ditch."\(^{27}\)

This ditch brought irrigation water to 225 peach trees, 15 apple trees, several apricot trees, and some grapes and berries. Unfortunately, the date of the tax record providing this information is unknown.\(^{28}\)

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\(^{24}\) Harlan Stephenson, Resident Landscape Architect, "Monthly Narrative Report," 25 April - 25 May 1938, File NPS-000, Box 1, Ibid.  See Chapters 5 and 16 for more details on CCC work at Capitol Reef.


\(^{26}\) A. van V. Dunn, National Park Service Hydraulic Engineer, to Superintendent Franke, 4 April 1941, File CR-601, 79-60A-354, Container 63180, Box 2, RG 79, NA-Denver.

\(^{27}\) Ibid.

\(^{28}\) Ibid.
Throughout the rest of 1941 and most of 1942, final sale of the Chesnut property was delayed by National Park Service efforts to sort out the tangle of property descriptions pertaining to Fruita. In October 1942, the lead investigator, Hydraulic Engineer A. van V. Dunn, submitted a final "Analytical History of Land Title" for the entire section in which the Alma Chesnut land was located. According to Dunn, Chesnut had a minimum of 14.87 acres under irrigation as of the 1935 Bates Decree, or .13-acre less than references in the decree. Yet, Dunn was positive that further research would only increase the acreage and that an estimated three acres lost to the shifting river channel should also be included. Thus, Dunn observed, "The declaration of taking of .66 second feet seems to be the minimum to which Alma Chesnut is entitled. The burden of proof seems to fall on his neighbors if they care to contest it." 29

The neighbors did not contest the .66 c.f.s., based on the quit claim deeds filed with the Wayne County Recorder during September 1942. 30 In the final Judgment on Declaration of Taking dated July 23, 1942, 66 acres and .66 primary water and all ditch rights were acquired from Alma Chesnut by the National Park Service for $1,800. 31

The Chesnut land and water rights were officially accepted by the U.S. government on March 2, 1944. The problem now was finding a way of preserving these water rights until development money became available. That job fell to Capitol Reef National Monument's new volunteer custodian, Charles Kelly.

The Kelly Years: 1933-1959

One of the main reasons Charles Kelly was encouraged to move into the old Chesnut house in May 1943 was to see that the soon-to-be-acquired water rights would be maintained. This was also the reason why, a year later, he was appointed monument custodian. 32 As an incentive to continue past irrigation practices (and thereby maintain water rights to the property), Kelly was allowed to keep any income he could generate by raising and selling fruit on the Chesnut place. The first year alone, he brought in a hefty $500 in fruit sales. So it seemed that maintaining the ditches and irrigating the orchard

29 A. van V. Dunn, "Analytical History of Land Title, Section 14, T. 29 S., R. 6 E., S.L.M." 8 October 1942, photocopy in File L54, Capitol Reef Historic Superintendent's Files, 17. This document contains a considerable amount of detailed information about Fruita land transactions and property description prior to NPS arrival.

30 "Water Right Deed 3, Acquisition of Alma Chesnut Land and Water Rights," (n.d., post 1947), File L54-Dockets, Historic Superintendent's Files contains a list of all deeds and other legal document pertaining to purchase; also see copies of deeds in the same file.

31 Judgment of Taking, United States v. Five Parcels, Alma Chesnut, et. al, Civil No. 376, 23 July 1942, Wayne County District Court, Loa, Utah; copy in File L54-Dockets, Capitol Reef Historic Superintendent's Files.

32 Superintendent Franke to Regional Director, 22 March 1943, File CR 201-06, 79-60A-354, Box 1, RG 79, NA-Denver.
was not only in the interest of the National Park Service, but that gave Kelly some personal incentive as well.33

At first, Kelly seemed willing to try to improve the irrigation system. In early 1944, Kelly asked his superiors at Zion National Park for some salvage wood to rebuild an old flume, attached to a cliff directly above the river, leading to the eastern parcel of land. The flume had been destroyed the previous year by a flood that washed away a considerable portion of the Chesnut orchard, and left the remaining trees without irrigation water.34 In 1946, Kelly made a second request to start work on the new flume and other ditch work, which would be funded as a rehabilitation project. There is no evidence however, that his project was ever initiated. The only visible remains of this flume in the 1990s are the steel pipes jutting out above the river from a sandstone cliff opposite Krueger Orchard.35

In 1949, Hydraulic Engineer A. van V. Dunn requested an update on Capitol Reef's water situation. In his reply, Charles Kelly made it clear that there was little monitoring of or control over Fruita's irrigation ditches. Nevertheless, he reported, there were no conflicts with other owners simply because everyone got as much water as he needed. Kelly wrote that "the water used has never been measured to any of the ranches here." Kelly had by this time given up on building a new flume and irrigating the eastern tract of land, which was now "badly washed by floods and...heavily overgrown with brush in most places." Nevertheless, the custodian noted that he was diligently using as much irrigation water as possible on the residence property "at all times, and the runoff waters [had made] a sort of small jungle which provides cover for large numbers of birds."36

In forwarding this report to Dunn, Zion Superintendent Charles J. Smith opposed funding to rebuild the washed out flume because the park service had "nothing in particular there to irrigate." Instead, Smith wanted to investigate the possibility of teaming with new Fruita property owners Dean Brimhall and Owen Davis to bring water to the ranger station. Since its construction by the CCC, this ranger station, located on a small bluff west of Fruita, had been without water. Smith believed that, since Brimhall and Davis had spent a great deal of money and time improving the main ditch along Johnson Mesa, it would now be beneficial to "put [park service] water in their ditch and pump it out onto the ground to make proper use of it."

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33 Charles Kelly, Diary, 19 January 1944, Charles Kelly Papers, Box 1, Folder 1, Manuscript Collection 100, University of Utah Library Special Collections, Salt Lake City.

34 Fred Fagergren, Zion Chief Ranger to Zion Superintendent, 9 February 1944, File CR 650-03, 79-60A-354, Box 3, RG 79, NA-Denver.

35 Memorandum dated 8 August 1946, File CR 600-01.2, Box 2, Ibid.

36 Kelly to Superintendent Smith, 27 September 1949, File CR 660-05.7, Box 3, Ibid.
He argued, "By sharing in the cost of maintenance of the ditch, [the park service] could get water on the area." The park service, Kelly wrote, needed a campground or a picnic area in that vicinity, and a locale near the ranger cabin would be suitable.37

Before this plan could be furthered, however, the harmonious cooperation described by Kelly only a year before had suddenly turned acrimonious. A rapid turnover in ownership and tenants in Fruita had resulted in such a lack of cooperation that needed ditch repairs were now totally ignored. According to Kelly, those using the ditches believed that "since the government has an interest in the water, the government [should] have to maintain the ditch and furnish water free to all other users." 38

Kelly went on to vent his frustrations at the willingness of people to wait for the National Park Service to take care of the ditches:

As a result the government property has not received its share of water for at least two years. This year it has not received sufficient [water] to keep the trees alive, and many are dying. When I repair the ditch and turn in water, all users above take it out before it reaches me. There is not and never has been any regulation whatever, and each user helps himself whenever there is water in the ditch, regardless of others; with the natural result that all the users hate each other for 'stealing water.' This condition is completely intolerable and must be remedied or the government water rights will be endangered.39

Capitol Reefs acting superintendent attempted to solve this problem by calling a meeting of all 11 Fruita water users and having them appoint a water master from among themselves to "apportion water turns." According to Kelly, who had acted only as a fellow user and not as a National Park Service employee, few of those present were willing to do anything. He concluded, "As expected, the meeting ended in a brawl." Kelly therefore asked his superiors to assist him in resolving this impasse.40

The infighting between Fruita neighbors as reported by Kelly negates the assumption that everyone was working in harmony toward cooperative irrigation. These problems may have been exaggerated by Kelly's frustration over his neighbors' failure to do as he asked. On the other hand, the rapid turnover in Fruita occupants at the end of World War II most likely played a key role in failing to get Kelly's ditch repaired. The traditional residents of Fruita were being replaced by new and often absentee owners, as well as changing tenants, who were not as dedicated to cooperative irrigation as earlier residents.

37 Smith to Regional Director, 18 October 1949, Ibid.
38 Kelly to Zion Superintendent, 20 September 1950, File CR-660-05.7 (Part III), 79-60A-354, Box 3, RG 79, NA-Denver. The following events are also recounted in Chapter 6.
39 Ibid.
40 Ibid.
Kelly's letter sent the National Park Service wheels in motion. A short investigation concluded that the best solution was to follow Superintendent Smith's earlier recommendation and continue efforts to re-channel National Park Service water rights toward future development sites near the dry ranger station area. Redirecting the National Park Service water would achieve three results: water would be piped to where it would one day be needed the most; the animosities between Kelly and his neighbors would be avoided; and there would be added insurance that no portion of the .66 c.f.s. water rights acquired by the National Park Service could be lost.\footnote{41}{Acting Assistant Director Cook to Regional Director, 13(?) October 1950 and Arthur B. Demaray, Assistant Director, to Regional Director, 14 November 1950, Ibid.}

The need to protect Capitol Reef National Monument's existing water rights was a primary focus in 1950. In the mid-1940s, Kelly had repeatedly been denied funding to rebuild a washed out flume that had once irrigated fruit trees on the former Chesnut parcels 3 and 4.\footnote{42}{Demaray to Regional Director 14 November 1950.} The amount of Chesnut acreage lost in this and subsequent floods was later calculated to be as much as 11.23 acres, which would leave only 3.77 acres to irrigate in the vicinity of the superintendent's house. Since adjudicated water rights that are not continuously used may be subject to forfeiture, and since Kelly couldn't use the park's full portion on less than four acres, the National Park Service was faced with the possibility of losing a portion of its water rights.\footnote{43}{A. van V. Dunn, Chief, Water Resources Division, to Regional Director, 14 March 1952, Ibid. This letter contains a great deal of information about the status of water rights during this time.}

The immediate solution was to file for a water rights extension for the maximum five years while National Park Service officials decided how to proceed. This was done in either late 1950 or early 1951. There is no record that neighboring water users contested this step.\footnote{44}{"Application for Extension of Time Within Which to Resume Use of Water, State of Utah," (attached to Demaray to Regional Director 14 November 1950 memorandum). This seems to be a sample copy since there is no application number. The Utah State Engineer or other state office may have the original application.}

Over the next few years, various proposals were submitted. These included building an elaborate campground on public land next to the ranger station; purchasing other land in Fruita (most likely, some of Dean Brimhall's land opposite the ranger station); and pumping the required amount water out of the river onto barren ground. There was also the question of whether an existing irrigation ditch to the Brimhall property could be used, or whether an entire new ditch would have to be constructed above all others. Superintendent Kelly advocated a simpler approach: dig a well next to the ranger station and get all the needed culinary and irrigation water without having to tap into the Fremont River.\footnote{45}{See various correspondence from the end of 1950 through 1952 in File CR-660-05.7, 79-60A-354, Box 3, RG 79, NA-Denver.}
Since the well seemed the cheapest approach, this became the selected option. Throughout the mid and late 1950s, the Mission 66 planning documents frequently refer to drilling a "deep artesian well" near the ranger station to supply all culinary needs. It was anticipated that the irrigation water would continue to come from the Fremont River.\(^{46}\) However, the well was never constructed. Another private well was proposed by new Fruita land owner Max Lewis, who had purchased the Owen Davis property in 1956 and planned to build a large house on top of Johnson Mesa. Lewis, and his plans, died only a few months later.\(^{47}\)

There is no conclusive record that anything had changed regarding Capitol Reef's water rights by the end of the 1950s. After 1952, there is no known documentation referring to the possibility that a portion of the National Park Service share of Fruita's water could be lost. Likewise, there is no known correspondence referring to well tests or water diversions near the ranger station or Sulphur Creek campground. Finally, if a compromise solution was ever worked out between Kelly and his Fruita neighbors, documentation of such an agreement has not been located.

If more detailed information is needed, the records may be found either in the Utah State Engineer's files or National Park Service files in the National Archives - Rocky Mountain Region, located in Denver, Colorado.

**Culinary Water Problems: 1950-1960**

Because the Fremont River water was deemed unsafe for drinking, and since a well was never drilled, the search for an adequate culinary water supply continued throughout the 1950s. For most of the first 20 years of the monument's existence, all culinary water came directly from the river. It was carried by irrigation ditches and then diverted into cisterns, where the silt would settle, leaving clear water for use. Water was then either pumped or gravity fed into the individual houses. By the early 1950s, the Capitol Reef Lodge was chlorinating all its water; lodge staff later took the additional step of boiling all drinking water. These precautions were probably were taken because the lodge served food to the public.

In 1951, public health inspectors recommended that the National Park Service dig a well for its culinary water. Until this was done, the service recommended that all drinking water be hauled by truck from a safe water source. At the very least, the public health

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\(^{46}\) See Mission 66 planning documents, File A9815, Accession 79-67A-337, Container 919498, Box 1, RG 79, NA-Denver.

\(^{47}\) Hugh M. Miller, Regional Director, to Director, 13 April 1956, File L54- Historic Compacts, Capitol Reef Superintendent's Files; Superintendent's Monthly Reports, July 1956, Box 4, Folder 3, Capitol Reef National Park Archives.
inspector warned, visitors should be advised to boil all water taken from the river or cisterns.\footnote{Lloyd O. Leslie, Public Health Service, "Report on Inspection of Sanitary Facilities, Capitol Reef National Monument, Utah," October 1951, File CR 660-03, Accession 79-60A-354, Box 3, RG 79, NA-Denver.}

Consequently, a larger, concrete cistern was installed behind the superintendent's house, and plans were made to haul water from Bicknell, 23 miles west of the park. By 1955, Kelly had given up on the Bicknell trips because they were "unsatisfactory and impractical." He argued that he knew of no one who had become sick from drinking river water. The time and effort necessary to make a 46-mile round-trip in an old tanker truck, however, was probably the most compelling reason to discontinue trucking water from Bicknell.\footnote{See correspondence in File D5031, 79-64A-571, Container SB 202382, Box 1, RG 79, NA-Denver.}

By 1957, Charles Kelly was chlorinating Fremont River water collected in his cistern and then trucking the water to the campground. Despite the recommendations of both the 1951 and 1953 Public Health Service inspections, Kelly refused to truck the water down from Bicknell. In 1958, another sanitation report warned that the situation would no longer be tolerated.\footnote{Gene B. Welsh, Public Health Service, "Report on Inspection of Sanitary Facilities," July 1958, Ibid.} Kelly argued that, since not one visitor had become sick in 17 years of drinking the Fremont River water, "this was better evidence of its safety than any laboratory test." Kelly also pointed out that since the campground was soon to be moved (according to Mission 66 plans). Since the cost and trouble of transporting water from Bicknell were so great, it would better to postpone any changes to his system.\footnote{Kelly to Zion Superintendent, 21 August 1958, Ibid.}

He was overruled. By April 1959, (two months after Kelly had retired) water was once again being hauled from Bicknell. Once at the park, it was transferred to two new 1,000-gallon tanks, treated, and then gravity-fed to the ranger station and Sulphur Creek campground. The yearly cost of hauling the water from Bicknell was estimated at $2,000.\footnote{Superintendent's Monthly Reports, March-April 1959, Box 4, Folder 3, Capitol Reef National Park Archives.}

By the end of the 1950s, water rights and supplies were able to meet the existing minimum demands. Then, the advent of Mission 66 and new highway construction through the heart of Fruita enabled the park service to purchase most of the remaining private inholdings. With these purchases came additional water rights and corresponding problems, usually from outside the monument.
Water Issues of the 1960s and 1970s


The National Park Service acquired the remaining Fruita properties for administrative, development, and rights-of-way purposes. The first private inholdings in Fruita were acquired in 1961 through condemnation of taking, in order to obtain a right-of-way for the new state highway through the Fremont River canyon. The Declaration of Taking, filed June 2, 1961, by Department of the Interior Solicitor Frank J. Barry, specified that these lands were needed "for road construction and for national monument purposes for the benefit and enjoyment by the visiting public." Along with the lands and buildings, "all and singular water rights" were also acquired by the National Park Service.

The lands involved in this declaration of taking included:

- Tract 3, Elizabeth and Richard Sprang's 133.93 acres and 1.883 c.f.s. water rights from the Fremont River;
- Tract 7, Cora Smith's 28 acres and 0.147 c.f.s. from the Fremont River;
- Tract 8, 17 acres and .16 c.f.s. of Dean and Lila Brimhall's 54 total acres and .44 c.f.s. from the Fremont River. Also acquired in 1961 were "all the seller's interest in diligence water rights from Sand Creek also known as Sulphur Creek." In December 1961, the National Park Service acquired the remaining rights to the Brimhalls' property and water.
- Tract 9, Max and Ailene Krueger's 65.38 acres and 1.37 c.f.s. from the Fremont River;
- Tract 10, Campbell brothers' Wonderland Stage's 40 acres east of Fruita, with no known water rights.

Thus, the total amount of land acquired in the Declaration of Takings was 284.31 acres. The water rights amounted to 3.84 c.f.s. from the Fremont River and an undetermined portion from Sulphur Creek.
Because of compensation disputes with landowners Cora Smith and Max Krueger, a Final Judgment in Condemnation was not issued until late 1962. On November 30, U.S. District Judge A. Sherman Christensen ruled that the Declaration of Taking was legal and proper and that all just compensation had been made. Thus, Judge Christensen upheld the National Park Service right to those lands and water rights.\textsuperscript{58}

Also in 1962, the National Park Service acquired Clarence Mulford’s and Ruby and Clarence Chesnutt's properties through purchase. Mulford’s land was estimated at 144.5 acres, and he held claim to 1.77 c.f.s. of Fremont River water rights. The Chesnuts had 40.9 acres and up to 1.38 c.f.s. of Fremont River water.

The specific amount of water rights acquired from the Chesnuts in 1962 could be disputed, since their parcel was almost six acres smaller than it had been when the Bates Decree was issued in 1935. This reduction was due to a 1936 sale of land to Doc Inglesby, who then sold 2.69 acres to the builders of Capitol Reef Lodge. On the other hand, both the Inglesby and the Capitol Reef Lodge tracts were acquired by the National Park Service by 1978; therefore, the entire 1.38 c.f.s. of Fremont River water rights eventually belonged to the National Park Service. Aside from the exact amount of water rights attached to the Capitol Reef Lodge property, the purchase of the Gifford farm in 1969 should have given Capitol Reef National Monument the remaining .35 c.f.s. of the 8.0 c.f.s. Fremont River water rights decreed in 1935.\textsuperscript{59}

\textit{Water Supply And Irrigation Improvements: 1962}

Between June 1, 1961 and June 30, 1962, Fruita's irrigation system was vastly improved. With the imminent removal of several private inholders and the acquisition of their water rights, the park service could unilaterally upgrade the area's ditches and flumes. When the Fremont River road construction began in July 1961, several ditches and flumes were relocated and others were created to serve the same property as before construction. The improvements specifically related to the road construction consisted of 3,254 feet of new ditches, 32 feet of round culvert, 250 feet of pipe arch, and one ditch value replacement. Other improvements consisted of replacing two flumes on the old Alma Chesnut property and three flumes on the "Old Guy Place," which was owned by the Sprangs. Unfortunately, there is no map to document exactly where the new ditches were constructed.\textsuperscript{60}

Transfer of Water Rights 8.00 c.f.s of Water-Fruita Residents," compiled by L. Sando in October 1962 and revised in May 1963. It is found in File L54-Historic Compacts, Capitol Reef Superintendent's Files.

\textsuperscript{58} Final Judgment in Condemnation, U.S. v. 284.31 acres, 30 November 1962.

\textsuperscript{59} The documents pertaining to these land sales and Declaration of Takings are in the L1425 and L54, Capitol Reef Historic Superintendent’s Files.

\textsuperscript{60} Superintendent William Krueger to Regional Director, 27 July 1962, File L54, Capitol Reef Historic Superintendent’s File.
The culinary water supply was greatly improved with the 1963 completion of the water treatment plant and distribution system. No longer was water hauled from Bicknell in tank trucks and stored in the two large cistern tanks behind the ranger station and in the residence area. Maintenance Foreman Bernard Tracy was responsible for the early operation of the plant, including testing, treatment, and release of water as needed. The new sewage system for the expanded residence area and the new 50-site campground along the Fremont River was also in place by early 1963.61

**Fremont River Water Rights: 1963-1965**

In the spring of 1963, the Torrey Irrigation Company asked the district court to re-examine the Fremont River water rights to determine whether the Hanksville company was using all of its water properly. While the ensuing two years of hearings did not directly affect Capitol Reef's rights, they did point out the need to monitor water use in Fruita more closely, in case future complaints were directed toward the monument.

The complaint was filed because the irrigators at Torrey believed that members of the Hanksville Irrigation Company had illegally diverted 1.5 c.f.s. from near the mouth of Pleasant Creek. Apparently, the Torrey Irrigation Company intended to prove that the purchase and redirection of this 1.5 c.f.s. had been done without the necessary paperwork, making the work invalid. Another dispute existed over exactly how much water was being lost to a Garkane power plant diversion near Teasdale.62

When the case was first presented to Judge Erickson in March 1963, the National Park Service was not even aware that a complaint had been filed. Yet, because there were only a few water users at this preliminary hearing, and since there was wide disagreement among those present, Judge Erickson ordered that accurate monitoring devices be installed at all diversions.63

National Park Service officials belatedly learned that these devices were to be installed by June 1, 1963. At a subsequent hearing, they successfully requested Judge Erickson and Deputy State Engineer Hubert Lambert to grant more time. The new devices, however, renewed concern that someone would discover that Capitol Reef was not using all of its decreed water. National Park Service Civil Engineer William E. Fields wrote:

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62 There are numerous field reports and correspondence related to the various hearings before Wayne County Judge Ferdinand Erickson and the state engineer between April 1963 and July 1965. These are in L54-Historic Compact and L54-Dockets, Capitol Reef Historic Superintendent's Files.

63 Order, Hanksville Canal Company v. Torrey Irrigation Company, Sixth Judicial District Court for Wayne County, Civil No. 167, copy in L54-Dockets.
Since we now are probably in excess of 100 acres [of land owned in Fruita] and by special permit [with Worthen Jackson] we are only getting 36 acres of this irrigated for us, it was mutually agreed that, if possible, we should hire a man full time to take charge of the irrigating. This man not only would see to it that beneficial use was made of the water but would be charged with keeping precise records of where and when water is applied.\textsuperscript{64}

This is most likely when irrigation records for Fruita began to be recorded on a somewhat regular basis. Previously, most if not all users of the Fremont River ignored the 1935 Bates Decree and used what water they wanted. There was no accurate monitoring and no apparent supervision from the state engineer's office since the 1937 Freeman Tanner report.\textsuperscript{65}

These 1963-65 hearings established that the Bates Decree was to be the official basis for all water rights claims on the lower Fremont River. Judge Erickson ruled during the May 24, 1963 hearing:

> The last legal action pertaining to water rights in this case was a decree by Judge Nephi Bates on July 15, 1935. At that time there were certain water rights defined and at the same time primary and secondary water was stipulated (sic). Since that time there has been no legal action at all based on this decree or use or non-use of the water. There have been no official records kept of use or non-use and as of now water rights, as far as the court is concerned, are the same as they were in the decree.\textsuperscript{66}

Erickson said that the 1935 decree would be used as a basis for all his future decisions. Thus, if Capitol Reef managers wanted to make sure they maintained the monument's share of Fremont River water, they had to prove that the National Park Service had legally acquired water rights with its Fruita land purchases.\textsuperscript{67}

An ongoing concern from National Park Service officials during these hearings was that Capitol Reef was not credited for all of the water rights it had acquired up to 1963. This caused the National Park Service to re-investigate all previous land sales in order to itemize exactly how much water came with which purchases.\textsuperscript{68}

\textsuperscript{64} Fields to Assistant Regional Director, 27 May 1963, L54-Historic Compacts. These records do not show if such a full-time position was ever created, but it is doubtful since later correspondence states that there were still no adequate record of water use.

\textsuperscript{65} Ibid.

\textsuperscript{66} Ibid.

\textsuperscript{67} Ibid.; Superintendent Krueger to Regional Director, 11 June 1963, Ibid.

\textsuperscript{68} Thomas J. Allen, Regional Director, to Wayne D. Criddle, State Engineer, 7 May 1963, L54-Historic Compacts; Daniel B. Beard, Regional Director, to Regional Solicitor, 28 May 1965, and J. Stuart McMaster, Regional Solicitor, to Hubert Lambert, Acting State Engineer, 6 July 1965, File L54-Dockets, Capitol Reef Historic Superintendent's Files.
By the end of 1965, the hearings were concluded and Capitol Reef's water rights had not been changed. This period of judicial involvement did, however, change some management practices at the monument. Water was more closely monitored, and more complete docket files were created in order to better document the National Park Service's water rights.

Aldridge Dam Proposal: 1959-1964

Judge Erickson suggested during the 1963 hearings that all Fremont River water users would benefit if they held claim to as much of their right as possible, so they would not lose out to other states further down the Colorado River. One way water could be more beneficially used, according to Erickson, was to build a reservoir for winter storage somewhere on the lower Fremont River.69

Caineville and Hanksville irrigators, who often saw the Fremont River slow to a negligible trickle during the middle of the summer, had dreamed of such a reservoir for some time. The site chosen for a modest earthen dam and reservoir was just east of the abandoned ranch community of Aldridge, approximately 5.5 miles east of the monument boundary.

In 1959, the Utah Water and Power Board urged the National Park Service to lend its support to diverting the new highway, Utah State Route 24, around the proposed reservoir site.70 Zion National Park Superintendent Paul Franke responded that, since the dam site was outside the monument, the state highway department was in complete control of the new road's alignment. For Franke, the only concern of the National Park Service was whether the dam's height might cause water to back up Pleasant Creek into the monument.71 Capitol Reef Superintendent William Krueger knew the Aldridge dam proposal was supported by several prominent local leaders. Nevertheless, he observed, "It is well known by the old-timers that such a structure would be of value only a short time and then would fill [with sediment] from the flood waters of the many washes and streams above."72

Despite this assessment, the Utah Water and Power Board submitted an application to appropriate water for the site in November 1960. This application specified that the proposed earthen foot dam would be built just east of the present river ford. The dam was to be 100 feet high, impound 17,000 acre-feet of water, and inundate 660 acres

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69 Fields to Regional Director, 27 May 1963.


71 Franke to Bingham, 3 September 1959, Ibid.

72 Krueger to Franke, 30 August 1959, Ibid.
surrounding the junction of the Fremont River and Pleasant Creek. The reservoir would be about 1 3/4 miles long and about 1/2 a mile wide.\textsuperscript{73}

The highway through the Fremont River canyon was completed in 1962. Its new alignment closely followed the river past its junction with Pleasant Creek and through the heart of the proposed reservoir. Nevertheless, to avoid the rather narrow stretch of canyon in which the dam was proposed, the Utah Water and Power Board provided the necessary funds to divert the road onto the southern benches.\textsuperscript{74} Meanwhile, the application process continued. The proposal to build the Aldridge dam and reservoir was published in the \textit{Richfield Reaper} on December 20, 1962. No protests were reported. Since the state engineer's office saw no initial reason to postpone the project, the formal application was approved on June 30, 1963.\textsuperscript{75}

In February 1964, the Utah Water and Power Board called a meeting of all lower Fremont River water users to explain the next steps necessary to get dam construction underway. The project would cost approximately $225,000, which would be provided by the Utah Water and Power Board. This money would be repaid over a period of years by all users of the lower Fremont. In order to insure adequate water supply, orderly apportionment, and repayment, the Utah Water and Power Board would also assume all water rights on the lower Fremont River until the dam was paid off. The rights taken would include those above the proposed dam, such as at Fruita, as well as the actual users of the reservoir's waters below the dam.\textsuperscript{76}

While Superintendent Krueger did not offer an opinion of the project or its implications for Capitol Reef. However, Regional Director Daniel Beard observed that the Aldridge dam appeared to be "a reasonable solution to the problem," if he understood the proposal correctly.\textsuperscript{77} Yet, R. W. Reed, the new branch chief of water resources, cautioned Beard about the project's possible effect on Capitol Reef's still uncertain water rights. Reed

\textsuperscript{73} "Application to Appropriate Water, State of Utah," Application No. 32509, submitted 29 November 1965, copy in L54-Historic Compacts, Capitol Reef Historic Superintendent's Files. The proposed reservoir's western end would have been about 1 1/2 miles east from the current national park boundary. It would have inundated the cottonwood grove near the river ford road access.

\textsuperscript{74} Superintendent Krueger to Regional Director, 13 February 1964, File L54-Historic Compacts.

\textsuperscript{75} Application No. 32509. During 1962, another reservoir application was filed by Stewart and John Campbell, who owned the former state school section on the monument's eastern boundary. They proposed to divert 40 c.f.s. and make a small, 300 acre-foot reservoir. It was projected, however, that the water would not back up into the Capitol Reef - A. van V. Dunn, Chief, Branch of Water Resources to Regional Director, 15 August 1962, File L54-Historic Compacts, Capitol Reef Historic Superintendent's Files.

\textsuperscript{76} Krueger to Regional Director, 13 February 1964; Daniel Beard, Regional Director, to Regional Solicitor, 24 February 1964, Ibid.

\textsuperscript{77} Beard to Regional Solicitor.
argued that "the loss of water, if any, resulting from non-participation may not be great enough to warrant the additional cost of participation." 78

Unfortunately, this is where all National Park Service correspondence on the Aldridge dam and reservoir project ends. The dam and reservoir were not built because of concerns over the siltation problem, which Superintendent Krueger had mentioned back 1959. In the 1970s, speculation over water impoundments needed for the proposed Intermountain Power Project coal-burning power plant caused the Aldridge site to be re-examined. While the dam was still seen as a good idea, it was determined that a reservoir immediately behind the dam would only last from five to 25 years before it was choked with silt. 79

**Sulphur Creek Water Rights: 1966-1978**

The 1935 Bates Decree did not address tributary streams, such as Sulphur Creek (often called Sand Creek), Pleasant Creek, and Oak Creek, which run through Capitol Reef National Park.

There are three authorized users of Sulphur Creek water. The National Park Service has priority claim based on Aaron E. Holt's affidavit signed June 14, 1945, stating he had begun yearly irrigation of 40 acres in 1902 from a diversion on Sulphur Creek behind the current visitor center. Holt maintained that he diverted .25 to 1.5 cubic feet per second of water as needed. An accompanying affidavit from Wayne County resident, attorney, and former water commissioner Silas Tanner verified Holt's claim. The affidavit also noted that the water had been consistently used by all of Holt's successors in interest up through Dean R. Brimhall. Since the National Park Service acquired the land and Sulphur Creek water rights from Brimhall in 1961, Capitol Reef's priority claim to Sulphur Creek water is 1902. 80 Capitol Reef National Park filed a diligence rights claim to 1.0 c.f.s. of Sulphur Creek water based on this 1902 priority in 1973. 81

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78 Reed to Regional Director, 6 March 1964.

79 See notes from phone conversations between unknown National Park Service official (most likely Superintendent Wallace) and Glen Willardson, Garkane Power Company, 8 May 1973, and Robert Murcock, Utah Division of Water Resources, 11 May 1973, File L54-Capitol Reef Superintendent's Files. These notes provide good information on the various water impoundment proposals associated with the proposed IPP power plant on Salt Wash north of Caineville, only 10 miles east of Capitol Reef National Park. Also see "Proposed Wilderness, Capitol Reef National Park," Draft Environmental Statement, prepared by National Park Service, Denver Service Center, June 1974, 12-28.

80 Aaron Holt, Affidavit of Use of Water, 14 June 1945, Wayne County Book of Deeds, Book G, 393; Silas Tanner, Affidavit of Use of Water, 15 June 1945, Ibid. Copies of these affidavits are found in File L54-Sulphur Creek, Historic Superintendent's Files. This is not the Freeman Tanner of the 1937 Tanner Report.

81 Reid W. Nielson, Regional Solicitor, to Grant Chappell, River Commissioner, 29 April 1977, Ibid. A copy of this diligence claim is in the same file but does not appear to be an approved copy, since it does not have a number. According to the solicitor's letter, the diligence claim number was 2772, State Engineer's File No. 95-747.
The other two Sulphur Creek users have 1926 and 1927 priority water rights. At the time Capitol Reef acquired its Sulphur Creek rights, Rulon Jones owned at least the 1927 priority. This 1.0 c.f.s. claim was used to water hay fields near the junction of Sulphur and Sand Creeks, approximately seven miles west of Fruita. The other water rights claim was to 3.0 c.f.s. of Sand Creek water with a 1926 priority right. This water was used to irrigate fields and water livestock on Sand Creek (tributary of Sulphur Creek) north of Torrey and west of Utah Highway 24. By the early 1970s, these claims were purchased by Salt Lake City attorney Ralph Lowe. The upper 3.0 c.f.s. claim was held jointly by rancher Don Pace.82

Conflict over Sulphur Creek water use has occurred on two significant occasions. In the very dry year of 1966, Rulon Jones irrigated his hay fields at the junction of Sulphur and Sand Creeks, causing the stream below him to run completely dry. Consequently, Capitol Reef was unable to irrigate portions of the Brimhall life estate or water the area around the visitor center. Jones was visited twice by National Park Service personnel, including Superintendent Harry P. Linder in the company of Water Commissioner Thomas Chappell. At this second meeting, Jones was cooperative and stated that he simply used the water so that it would not go to waste before drying up short of Fruita. Jones agreed to let water down Sulphur Creek to prove his point. However, only days after this meeting, the area had a heavy rain, the water shortage was over, and the dispute ended as quickly as it had begun.83

Then in 1976, Ralph Lowe, the new owner of both upriver claims, leased property to Rulon Hunt. Hunt once again diverted Sulphur Creek and left Fruita dry. Superintendent William F. (Franklin) Wallace wrote a strong protest letter to Hunt, warning that if the diversion did not stop, the F.B.I. would be notified.84 A letter from the Bureau of Land Management district manager, on whose land the new diversion ditch was located, also warned Hunt to "cease and desist."85

Apparently, the problem persisted through 1976 and into 1977. In April 1977, Wallace once again visited the diversion site and found a full ditch running onto the property owned by Ralph Lowe, causing Sulphur Creek to run dry at Fruita. Within the week, Superintendent Wallace signed an affidavit stating that an illegal diversion of Sulphur Creek water was causing "serious and irreparable harm to vegetation within Capitol Reef

82 See copies of Certificates of Appropriation in File L54-Sulphur Creek. Also see Dee C. Hansen, State Engineer, to Ralph Lowe, Don Pace, and Capitol Reef, 26 April 1977, Ibid.

83 1966 various correspondence in File L54-Sulphur Creek, Capitol Reef Historic Superintendent’s Files.

84 Wallace to Hunt, 17 June, 1976, File L54-Sulphur Creek, Capitol Reef Historic Superintendent’s Files.

85 Donald L. Pendleton, BLM District Manager to Hunt, 1 September 1976, Ibid.
This affidavit was needed before a preliminary injunction could be filed by the U.S. Justice Department against property owner Lowe.

In August 1977, a representative from the state engineer's office convened a hearing in the county seat of Loa. Representing the National Park Service were Superintendent Wallace, Regional Chief of Water Rights William McKeel, the regional solicitor, and two park rangers. Also at the hearing were "a number of local farmers as witnesses for Mr. Lowe." This hearing had all the makings of another confrontation between local residents and the park. Conflict was averted, however, when both sides agreed to share the water equally. Both Lowe and Wallace agreed to install measuring devices at their points of diversion while the National Park Service would construct a dividing box at the confluence of Sand and Sulphur Creeks. This compromise was to last until a final determination of water rights was made by either the courts or the Utah state engineer.

By 1978, a permanent solution was reached by all parties. Since everyone concurred that there was simply not enough water in Sand and Sulphur Creeks to accommodate everyone's rights, the three users volunteered to share all water through a seven-day rotation system. This system was devised by Ralph Lowe, Don Pace, and Superintendent Wallace, and was to be monitored by the Utah State Division of Water Rights.

While the National Park Service clearly had priority claim to its share of Sulphur Creek, it determined that compromise was better than confrontation. In this case, the solution seems to have left everyone, if not happy, at least agreeable.

**Pleasant Creek Water Rights**

When Capitol Reef National Monument was expanded in 1969 and made into a national park in December 1971, about five miles of Pleasant Creek and four miles of Oak Creek were included within Capitol Reef's boundaries. Between 1974 and 1978, the National Park Service purchased all of Lurton and Alice Knee's Sleeping Rainbow Ranch on Pleasant Creek, allowing a 13.13-acre life estate for the Knees. This transaction brought all of the Knees' accumulated water rights under the control of the National Park Service. Those rights included:

1) .925 c.f.s. diligent right of Pleasant Creek water with a priority claim of 1899 (Thisbee Hanks's homestead affidavit). This was based on 36.98 acres of irrigated fields and watering of 50 cattle and 20 horses.

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86 Wallace, Affidavit, 5 May 1977, copy in L54-Sulphur Creek.
87 Wallace to Regional Director, 21 September 1977, Ibid.
88 Ibid.
89 "Summary of Meeting of Sand and Sulphur Creek," 15 May 1978, Ibid.
90 See Chapter 17 for more information on the purchase of the Knee property.
2) .527 c.f.s. accumulated rights to three intermittent draws draining off Miners Mountain to the west. This water was used to help irrigate the 36.98 acres and water those 50 cattle and 20 horses.

3) .02 of .237 c.f.s. from a spring that was used for domestic consumption. It is unknown if the remainder of this right is what was retained by the Knees as part of their life estate.

4) Unspecified amounts of Pleasant Creek and Miners Mountain water needed to water up to 50 cattle and 20 horses.91

Oak Creek Water Rights

The 16.09 c.f.s. of upper Pleasant Creek and all Oak Creek water are claimed by Sandy Ranch, which has a priority date of 1913. This was when William Bowns began to build reservoirs on Boulder Mountain (Torgerson, Oak Creek, and Bowns Reservoirs) and divert water through the Waterpocket Fold via Oak Creek Canyon. At the eastern end of the canyon, Bowns and his son, Leo, constructed a 45-foot-high by 106-foot-long rock and cement dam. Water was then diverted into a canal, flume, and series of ditches to water private lands owned by several succeeding interests, which are usually called the Sandy Ranches. The Oak Creek dam was improved in 1955 and again in 1964 or 1965, because of siltation behind the dam and an increased demand for water.92

According to Sandy Ranch records, the ranch owns the following water rights:

1) 16.09 c.f.s of upper Pleasant Creek under Certificate 2313;
2) 2.74 c.f.s. from an unnamed tributary of Oak Creek under Certificate 2313;
3) 9.0 c.f.s. of Oak Creek water under Certificate 5045.93

Irrigation System Improvements: 1970s

The most significant event concerning water rights in Capitol Reef during the 1970s was the 1973-75 installation of underground pipes and a new diversion system that significantly improved the irrigation of Fruita's orchards. A cement siltation-control pond was constructed near the location where the old upper ditch used to divert the Fremont River. From here, water was pumped as needed through various pipes to the orchards. Once the water reached the orchards and fields, it flowed through the old, existing ditches to flood irrigate the ground. A pipe sprinkler system was also installed to water the picnic

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93 Ken Wyrick, Tercero Corporation, to Superintendent Derek O. Hambly, 28 January 1982, Ibid.
grounds and the Jorgensen pasture, which lies across from the road from the Pendleton barn. Although large sections of the old main ditches were abandoned, most of the original irrigation system remained intact. These changes watered more area while eliminating the need for time-consuming, labor intensive ditch cleaning.\(^94\)

**Water Rights During the 1980s and 1990s**

During the 1980s and 1990s, Capitol Reef National Park managers attempted to solidify existing water rights and began studying all water resources within park boundaries.

**1983 Adjudication**

General adjudication of all water rights on the western half of the Colorado River Basin began in 1983. This adjudication resulted in a reduction of the park’s share of Fremont River water from 8.0 to 7.65 c.f.s. The reasons for the reduction are unclear, but evidently, the “missing” .35 c.f.s. were associated with the Gifford property, purchased in 1969. This conclusion is derived from the fact that "Statements of Water User's Claims" were filed in December 1983 for water rights associated with the former Fruita claims, the Sulphur Creek claim, and the Pleasant Creek claims, except for the .35 c.f.s. believed to have been retained by Dewey Gifford.\(^95\)

As part of this same general adjudication, the National Park Service claimed additional water rights throughout the rest of Capitol Reef National Park. Since grazing was still practiced throughout the park, an additional 3.62 c.f.s. could be claimed due to the over 50 permit holders and their 2,415 head of livestock using the park’s various intermittent streams, springs, and waterpockets. The 64 water claims that are mentioned in all Capitol Reef "Statements for Management" from 1984 to 1993 are apparently based on this reasoning.\(^96\)

**North District Water Rights**

In the early 1900s, several ditches were dug along the eastern flanks of Thousand Lake Mountain to carry spring runoff to the Last Chance (Baker) Ranch. The most extensive of

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\(^{94}\) See correspondence in File L54, Capitol Reef Historic Superintendent’s Files, and maps in Drawer 4, Capitol Reef National Park Archives. Additional information was provided by Kent Jackson, Lead Orchard Worker, telephone interview with Bradford Frye, 11 August 1994.

\(^{95}\) See court documents and correspondence related to In The Matter of All Rights to the Use of Water, Both Surface and Underground, within the Drainage Area of the Colorado River in Kane, Garfield, Wayne, Piute, Emery, Sevier and Sanpete Counties, Utah and Exclusive of the Green River and Virgin River Drainages, Case No. 435, Sixth Judicial District, Wayne County, Utah, 1983; partial records found in File L54-Dockets, Capitol Reef Superintendent’s Files.

these ditches ran from Deep Creek Lake toward the Baker Ranch. Another ditch trapped snowmelt from McDonald Basin and then drained into the upper Deep Creek ditch. These ditches left many of the upper Waterpocket Fold drainages dry, may have eliminated several riparian communities, and likely left at least one homestead on Bullberry Creek without water.\textsuperscript{97}

In 1983, Fishlake National Forest officials determined that the ditches were no longer being used or maintained by the Jeffery family, which then owned the Baker Ranch. The U.S. Forest Service therefore terminated the Jefferys’ water transport permits and breached the ditches in several places. This caused the spring runoff to drain directly into the Waterpocket Fold for the first time in 80 years. Superintendent Derek Hambly hoped that the water now entering the Deep Creek drainage would flow into the South Desert and create a new riparian environment.\textsuperscript{98}

\textit{Water Quality Research}

Prior to the 1980s, there was little water quality research or sampling for any of the park's streams, springs, or waterpockets. One of the first extensive investigations was completed during 1981 for the Fremont River and Sulphur and Pleasant Creeks. This research documented some gross beta radiation in the Fremont River, apparently caused by man-made agents. The investigators recommended extensive monitoring to ensure that beta particles were not entering the culinary water supply, and to lay the groundwork for further water quality research.\textsuperscript{99}

Over the next decade, an elaborate water quality research program was initiated at Capitol Reef. An aquatic biologist and a full-time water quality technician were hired, and both in-house and professionally contracted research projects were undertaken. These have concentrated mostly on the Fremont River and on the ecologically unique waterpockets, or tinajas, in the southern part of the park. These extensive research projects should clarify the actual, as opposed to the assumed, impacts that 100 years of extensive grazing and irrigation farming have had on the water supply of the Waterpocket Fold country.\textsuperscript{100} Notably, however, both positions were vacated in 1994 and still were not filled as of 1998, due to lack of funding.


\textsuperscript{98} 1983 Annual Superintendent's Report, File A2621, Capitol Reef Superintendent’s Files, 8.


\textsuperscript{100} 1989 Superintendent's Annual Report, File A2621, Capitol Reef Superintendent’s Files, 5; Charles V. Lundy, Capitol Reef Superintendent, telephone interview with Bradford Frye, 29 July 1994, tape on file, Capitol Reef Unprocessed Archives.
In the summer of 1991, during routine treatment by the Utah Division of Water Resources of the upper Fremont River to eradicate whirling disease in trout, an entire barrel of rotenone was accidentally released upstream from the park. Utah Division of Water Resources officials then dumped large quantities of potassium into the river to neutralize the rotenone. The chemicals turned the Fremont purple for miles and killed virtually all fish and macroinvertebrates in the lower Fremont (including that portion within Capitol Reef). Long-term effects of this spill on the health of the Fremont River are unknown.\textsuperscript{101}

**Fremont River Dam: 1986-1991**

In 1986, the Wayne County Water Conservancy District (WCWCD) applied to the Federal Energy Regulatory Commission (FERC) to construct a dam and hydroelectric power plant on the Fremont River south of Torrey. A 35,000-acre foot reservoir would be used for water storage and recreation and a penstock would divert the Fremont River to a power plant near Capitol Reef's west boundary. Numerous federal water and riparian habitat reports were initiated in response to this proposal.\textsuperscript{102}

This was not the first time that a dam and reservoir had been proposed near Torrey. As early as the 1940s, the Bureau of Reclamation had identified the site as a possible water storage and power plant locale.\textsuperscript{103} Then, during the height of the Intermountain Power Plant (IPP) project in the 1970s, one proposal called for a dam on the Fremont River near Torrey to store water as needed for the power plant and agriculture downstream.\textsuperscript{104}

The National Park Service actively opposed the Fremont dam, probably because it was to be located upstream from Capitol Reef. From the outset, agency personnel filed protests and comments to ensure adequate consideration of the effects of such a dam on water quality and riparian habitat within a national park.\textsuperscript{105}

By the end of 1989, the dam's supporters had completed preliminary environmental work and prepared to file for a license application with the FERC. Based on extensive research by Capitol Reef's resource management staff, park managers criticized the preliminary findings of the WCWCD. These critical comments, with similar objections offered by the Bureau of Land Management, were supposed to be attached to the application but were left out by the project proponents. The omission of the federal agency comments caused the FERC to reject the application. Instead, the regulatory commission extended the

\textsuperscript{101} 1992 Annual Superintendent's Report, 5.

\textsuperscript{102} 1986 Superintendent's Report, File A2621, 8.

\textsuperscript{103} Michael W. Straus, Commissioner, to J. A. Krug, Secretary of Interior, 23 June 1949, File XL 102, Part 8, 1948-49, Box 44, Entry 46 "Water Matters," RG 79, National Archives, Washington, D.C. This letter contains a list of all possible project sites on the Colorado River drainages.


\textsuperscript{105} Ibid.
preliminary permit for another three years, during which time the WCWCD had to re-submit the entire proposal.\textsuperscript{106}

By the end of 1991, it appeared that lack of funding and other roadblocks would doom the Fremont River dam project, but proponents had not given up.\textsuperscript{107} In June 1992, a hearing to extend the permit was held in Loa. The National Park Service, the Bureau of Land Management, and the leading environmental organizations all opposed any deadline extension. The FERC eventually concurred, thereby killing the Fremont River dam project.\textsuperscript{108}

Dam proponents were disappointed, but soon turned their attention to an alternative site near Caneville, east of the park and near the old Aldridge dam site. They hoped that this proposal, downstream of Capitol Reef, would meet with less resistance.\textsuperscript{109} This issue has yet to be resolved.

The threat of a dam above the park spurred National Park Service and BLM officials to seek Wild and Scenic River status for the Fremont River gorge between Torrey and Fruita. Like the latest dam proposal, action on this matter is still pending.

\textit{Conclusions}

Compared to other resource issues at Capitol Reef National Park, water rights issues have had an unusually quiet history. The isolation of the area and sparse population along the river have enabled most of those who did use the Fremont River through the Waterpocket Fold to take as much water as needed. Consequently, water use was rarely monitored between 1935, when the Bates Decree adjudicated rights on the lower Fremont River, and the 1960s. Since that time there have been minor disputes over the park's water, but these could be resolved without damaging park resources.

\textsuperscript{106} 1989 Superintendent's Annual Report, 5; 1990 Report, 2; Capitol Reef's comments and objections to the dam, dated July 1991, are found in File L54, Capitol Reef Superintendent's Files.

\textsuperscript{107} Salt Lake Tribune, 8 December 1991.

\textsuperscript{108} Utah Wilderness Association to Tobias Martinez, Fishlake National Forest Supervisor, 15 June 1992, File L54.

\textsuperscript{109} Richfield Reaper, 3 March 1993.
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CHAPTER 14

FRUITA MANAGEMENT HISTORY

"What do we do about Fruita?" This question has no doubt been asked by every National Park Service manager concerned with Capitol Reef. There have been no easy answers regarding Fruita, which is constricted in size by towering cliffs and mesas, and is the focus of various competing interests.

Controversy began decades ago, when private landowners struggling to maintain their way of life and monument managers trying to fulfill their mission sometimes conflicted. Later, after Fruita was acquired by the National Park Service, managers were faced with deciding which buildings would remain and which should be razed. Unfortunately, these decisions were often guided more by aesthetics and infrastructural needs than by a sense of history, and they stirred further local controversy. Once a decision was made to preserve historic Fruita, managers had to determine how to go about it. The recent National Register listing of the entire Fruita area, identified as a rural historic landscape, will help shape a long-term, cohesive policy. But even now, managers must reconcile the often conflicting needs of historic preservation and visitor services within the confines of the historic district.

This study traces National Park Service policies toward Fruita, from inholding conflicts, through Mission 66 developments, to later efforts to manage the historic resources. The purpose of this discussion is to chart the National Park Service's evolving management philosophy toward Fruita. Please consult other chapters of this administrative history or the cited references for more details on area history, prehistory, or other specific issues.

Fruita Becomes Part Of The Monument: 1931-1937

The unique landscape that brought the National Park Service to the Waterpocket Fold country has also limited the agency's ability to develop the area. The rugged, arid, slickrock topography channeled potential visitor services to the few accessible flat spots near water. The only sites that met this criterion within the original monument are those places where the Fremont River and Pleasant Creek enter and exit the Waterpocket Fold. The three most suitable locations for headquarters development -- Notom, Floral Ranch, and Fruita -- have a long record of human habitation; however, of these areas, only Fruita was included within the original monument boundaries.
For the National Park Service officials charged with studying possible boundaries and future development potential of the Capitol Reef area, Fruita was the obvious choice for headquarters development: it was easily accessible, had potable water, and included flat, open land suitable for buildings and campgrounds.

The first in a long series of difficult decisions facing the National Park Service was whether Fruita should even be included within the proposed national monument. The first National Park Service official known to visit the area was Zion National Park Superintendent Thomas J. Allen. In July 1931, at the urging of local business leaders, Allen went to “Wayne Wonderland” to investigate its possibilities as a national park or monument. In describing the region's spectacular scenery, Allen observed that the best of it was around Fruita.1

Allen's initial report brought official investigator Roger W. Toll to the area the following year. Toll, like Allen, traveled to Capitol Reef via the rough dirt road from Torrey to Fruita, and continued on through Capitol Gorge. Toll reported that Fruita consisted of "two ranches and a roadside store" and was "probably the best base from which to explore the country."2

Toll returned to the Waterpocket Fold country in November 1933 to conduct a more thorough investigation. By this time, local promoter Ephraim Pectol had persuaded the Utah State Legislature to pass a resolution proposing national park or monument status for the area, and providing specific boundary recommendations. These boundaries, presumably drawn up by Pectol himself, specifically excluded the private lands of Fruita.3

The problem with this first boundary proposal, according to Toll, was that the proposed monument would be broken into three separate units. After five days of study and discussions with Pectol, Toll recommended that Unit 1, between Torrey and Bicknell, be dropped from consideration, and Unit 2, which encompassed the upper Fremont River Gorge, be connected to an expanded Unit 3. This area would thus protect the Capitol Reef section of the Waterpocket Fold north, east, and west of Fruita. Toll was clear on the point that the private lands of Fruita, itself, were to be excluded from the national monument proposal.4

1 Allen to National Park Service Director, 15 July 1931, File CR-100, Accession 79-60A-354, Container 63179, Box 1, Records of the National Park Service, Record Group 79 (RG 79), National Archives-Rocky Mountain Region, Denver, Colorado. All National Archive RG 79 records are found in this repository unless otherwise noted.

2 Toll to National Park Service Director, 8 November 1932, Box 1, Folder 1, Capitol Reef National Park Archives, Visitor Center Library, Fruita, Utah (hereafter referred to as Capitol Reef National Park Archives).

3 Toll to Director, 13 April 1934, Box 1, Folder 2, Capitol Reef National Park Archives, gives a detailed listing and analysis of the 1933 Utah State Legislature resolution. Also see Chapter 8 for more information on the various boundary proposals.

4 Toll to Director, 13 April 1934, 4-5.
Fruita was not included in the proposed monument's boundaries until after Zion Superintendent Preston P. Patraw's more extensive investigation in 1935. This detailed analysis of lands and resources within the recommended Capitol Reef National Monument introduces the first Fruita management policy:

At the suggestion of the Director's office, Mr. E. P. Pectol, of Torrey, had worked out a boundary line which would include the private lands of rural Fruita. The wisdom of doing so and subsequently acquiring the private lands is apparent when it is realized that Fruita is the logical place for locating the center of future monument development, and that under continued private ownership uncontrolled and competitive development of tourist accommodations is bound to follow progressively with increase of tourist visitation.\(^5\)

Patraw insightfully observed, "[Fruita] is centrally located in the area and any highway constructed must go through the town. All land suitable for administrative and tourist facilities is in private ownership."\(^6\)

Zion's Superintendent also recognized that purchasing the private lands of Fruita would not be easy. Patraw estimated, based on the "local opinion of land values," that the total cost of purchasing the approximately 100 acres of "rich fruit lands with ample water rights" would be around $50,000. The opinions of the Fruita residents regarding this proposal were not mentioned.\(^7\)

It should be noted that none of the other possible locations that met development criteria was recommended for inclusion within Capitol Reef National Monument. Thus, Fruita was the only possible location for National Park Service development during these early years.

Early Developments: 1937 - 1942

In the euphoria surrounding the 1937 presidential proclamation creating Capitol Reef National Monument, the inherent conflict between National Park Service development needs and continued private ownership in the same restricted area was overlooked. Correspondence among Ephraim Pectol, Superintendent Patraw, and Regional Director Frank Kittredge does not mention previous recommendations to purchase the Fruita lands.\(^8\) Instead, development was to proceed at a slow pace. Kittredge cautioned, "We are going to have to do some thorough studying before we undertake any development.


\(^6\) Ibid., 5.

\(^7\) Ibid.

\(^8\) See Patraw to Kittredge, 12 August 1937; Kittredge to Patraw, 28 September 1937; and Kittredge to Pectol, 4 October 1937, File 201, Accession 79-60A-354, Container 63179, Box 1, RG 79.
We cannot afford to make mistakes by jumping into work, perhaps scarring some of the country and then wishing we had not.”

Of course, lack of money even to conduct preliminary surveys of the new monument also must have played a key role in postponing any attempts to purchase the Fruita lands. Yet, both Patraw and Kittredge recognized the need to either build or acquire some kind of headquarters building and associated water rights. Patraw specifically recommended that a previously proposed Civilian Conservation Corps (CCC) crew be assigned to Capitol Reef as soon as possible.

From 1938 to 1942, the CCC built the ranger station, performed extensive stream bank stabilization along the Fremont River through Fruita, improved the Hickman Bridge trail, constructed a new bridge across Sulphur Creek, and realigned and otherwise improved several sections of the monument road.

Because all of the most desirable property was already privately owned, the ranger station was built on public land on the western edge of the community. According to the 1939 master plan, a residence and utility area were to be built adjoining the CCC structure.

After the CCC was disbanded at the beginning of World War II, federally financed construction at Capitol Reef National Monument halted until the early 1960s. Historic photographs from the 1940s and 1950s starkly contrast the lonely CCC building on barren land west of the road to the lush fruit farms on the east. These pictures can be seen as a metaphor for the National Park Service presence at Capitol Reef during this period: minimal and peripheral.

Any future growth in the agency's presence at Capitol Reef was directly tied to the acquisition of private lands at Fruita. The 1938 Development Outline for Capitol Reef National Monument clearly stated, “Monument headquarters developments logically belong at Fruita. The desirable land being in private ownership, a complete development plan for a headquarters, including visitor accommodations and services, may not be prepared until the land is purchased or otherwise acquired.”

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9 Kittredge to Pectol, 4 October 1937.
10 Patraw to Kittredge, 12 August 1937; Kittredge to Patraw, 28 September 1937.
12 Drawing Nm CR 2004A, Drawer 9, Folder 1, Capitol Reef National Park Archives. Since applicable water rights had not yet been acquired by the National Park Service, the ranger station, originally designed as a residence, was uninhabitable for many years.

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World War II significantly affected National Park Service development throughout the country. Recently established units such as Capitol Reef were dealt a particularly hard blow. The war effort siphoned off money, personnel, and agency attention, leaving a minimal National Park Service presence at Capitol Reef. The land continued to be used for farming, grazing, and mining, as though the area had never been set aside as a national monument. The nearest National Park Service officials were in Bryce Canyon and Zion National Parks, nearly an entire day's drive away. This lack of federal attention must have disappointed local tourism boosters. Yet, from those living in or using the lands within the monument, there was surely a sigh of relief. Already suffering from years of agricultural depression and war-time restrictions on gas and tires, residents of Fruita struggled to continue their customary lifestyle, monument or no. The lack of National Park Service controls allowed them to do so. The situation led local residents to believe that their traditional use of lands now within the new monument would not be challenged.

By 1943, Zion National Park Superintendent Paul R. Franke, who would oversee Capitol Reef operations between 1939 and 1959, had realized that it was no longer practical to wait for acquisition of Fruita before planning monument developments. Franke wrote:

The present Superintendent recognizes the conflict of private land but can see no reason why [the] majority of present owners cannot continue to reside and operate their ranches within the Monument. With encouragement from the Service, these owners can be encouraged to develop and maintain their property in conformity with standards to be established....The type of physical developments should conform to the early Mormon type of architecture (stone). 14

While Franke did not clarify his idea of "early Mormon type of architecture," his is the first known reference in a planning document to Fruita as a potential interpretive local for Mormon culture and history.

The problem with Franke's suggestion was that these "standards" would have to be imposed on private landowners who had resided in Fruita long before the monument was established. Further, the nearest National Park Service presence was hundreds of miles away. Until Franke could secure a habitable residence, water rights, and a staff to provide the monument with a continual National Park Service presence, any Fruita management policy was moot.

From Accommodation To Acquisition: 1943 - 1956

Superintendent Franke must have been greatly relieved to acquire the Alma Chesnut place, its .66 second feet of water, and Charles Kelly as volunteer custodian. 15 However, long-range planners continued to struggle with the Fruita dilemma.


15 See Chapters 5 and 13 for more detailed information on the Alma Chesnut purchase.
In the 1949 master plan development outline prepared by Zion Superintendent Charles J. Smith, there is a good example of the conflicting attitudes toward Fruita. On one hand, Smith writes, "The choice building sites are [sic] in private ownership within the monument and private enterprise is at present developing a hodge-podge of cabin camps, beer joints and cheap shops on private land." On the other hand, Smith observed:

It is suggested we deviate from Service policy in that we do not attempt to procure all the private lands within the area. The picturesque town of Fruita is situated within the monument. It is a part of the native scene and it is believed we should not attempt to purchase all the land which makes up the small community, at least, not for the present.

Although the desirability of acquiring Fruita was recognized, lack of management control was resulting in private tourist developments deemed unacceptable by National Park Service officials. With no money to purchase the offending private facilities or construct alternative public accommodations, there was little Smith or Charles Kelly could do about the "hodge-podge" nature of tourist developments in the area.

Due to the war and extremely poor roads into Capitol Reef throughout the 1940s, visitors were mostly either local people using the monument on weekends and holidays, or a "higher-class" of adventure seekers who actually preferred the lack of developments. In 1943, the only tourist accommodations were six "poor shacks without any modern conveniences" owned by Doc Inglesby and William Chesnut. By 1946, a private landowner began an ambitious attempt to build a replica of the Zion Lodge at Fruita, but high costs and the owner's poor health forced compromises on the Capitol Reef Lodge's size and appearance.

Although visitation to Capitol Reef began to increase during the 1950s post-war prosperity, the development of hospitality facilities at Fruita was more directly a result of the uranium boom. Capitol Reef Lodge was improved to accommodate winter guests and Dewey Gifford built a motel in his front yard to serve the steady stream of prospectors passing through the area. Local people were also counting on increasing tourism, though, once the roads into Capitol Reef were improved.

In 1950, the National Park Service contemplated purchasing Dean Brimhall's property, across the road from the ranger station, for the residential/utility area and a campground.

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17 Ibid., 6.

18 Both the 1949 and 1953 master plan development outlines discuss these kind of visitors.

19 1943 Development Outline, 10.


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When Brimhall declined to sell, Zion's Superintendent was actually relieved. Smith believed that the time was simply not right to make long-range plans for a campground or residence on the private lands of Fruita. Smith wrote, "We believe it is just wishful thinking and not at all realistic to plan the key developments, and development which is essential in the near future, on land which we have only a remote prospect of obtaining at an early date." Smith, however, still favored minimal facilities, such as a campground to be built on the old Alma Chesnut property. He believed that such a facility would meet visitor needs for five or 10 years. Smith observed, "If such campground proves to be inadequate or in the wrong location, we can write it off when the time comes and be satisfied that it has served the people reasonably well for a reasonable time."

Smith realized that acquisition of the private lands of Fruita was several years off, and that National Park Service development of visitor facilities would be delayed accordingly. Back in 1948, the cost of purchasing Fruita was inhibitive, and managers also worried about how the local economy might be affected by such a transaction. According to Smith:

To acquire all inholdings at Capitol Reef, it would be necessary to purchase the land on which the little town of Fruita lies. This land consists almost entirely of highly productive fruit farms. The cost would be great. Recent sales have amounted to $300 per acre and the bearing fruit tree acreage is held at from $800 to $1000 per acre....Purchase by the government would decrease the taxable property in Wayne County -- perhaps the poorest county in point of taxable property in the state of Utah.

This concern, coupled with the desire to preserve "this picturesque pioneer Mormon settlement," prompted Superintendent Smith to consider the Floral Ranch area on Pleasant Creek as a location for monument headquarters. This uncertainty over where headquarters should be located is exemplified in the following September 1948 statement by now Associate Regional Director Preston Patraw:

The choise (sic) between Fruita and Floral Ranch for Monument headquarters is a very narrow one. The Floral Ranch site has the advantage of being much less dislocating of local communities than would be involved at Fruita. On the other hand, I would consider Fruita as being the more strategic location for administrative headquarters. However, if

22 Smith to Regional Director, 3 May 1950.
23 Ibid.
24 Smith to Regional Director, 1 December 1948, File 610, Ibid.
25 Ibid.
there is a way to acquire the Floral Ranch I believe I would favor that
location, because of the much greater ease and less expense with which the
headquarters could be established there.26

Ultimately, the location of the monument's headquarters would be determined by the route
of the new paved highway through Capitol Reef. In 1956, when the Utah Bureau of
Public Roads agreed to build the road through the Fremont River canyon, the Pleasant
Creek headquarters idea was abandoned.27

When Capitol Reef National Monument was officially activated in 1950, the slowly
developing public facilities were still restricted to the edges of Fruita proper. A small
campground was finally placed along Sulphur Creek north of the ranger station, and a few
picnic tables were set out near the old schoolhouse property owned by Merin and Cora
Smith. Apart from the CCC-built ranger station and the Chesnut house where Kelly lived,
there were no National Park Service-owned buildings at Capitol Reef until the early
1960s.

The 1953 master plan, written by Superintendent Charles Kelly, proposed purchase of a
small amount of private lands for headquarters developments. Since campground, utilities,
and residential developments needed to be near the ranger station (which still had no water
allocation), acquisition of the Brimhall estate was still the principle objective.

It was Kelly's continued hope that Fruita could be preserved:

The orchards on private land at Fruita, within the monument, make a very
favorable impression on desert travelers during the summer. The current
policy is to leave these private owners where they are, as part of the local
picture, rather than eventually to acquire all private land as was done at
Zion, although this will create minor problems and occasional difficulties.28

Thus, throughout most of the 1940s and early 1950s the management policy toward Fruita
was one of reluctant acceptance. Once it became clear that purchasing the private lands of
Fruita was not practical, managers could only hope that voluntary compliance with
building standards might make Fruita a more "picturesque town." At the same time,
minimal developments such as a campground, and even future residences, were to be
constructed at the entrance to Fruita. These were to serve the needs of the monument
until the situation changed. Thanks to Mission 66, these changes would occur rather
rapidly.

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26 Preston P. Patraw, Office Memorandum, 9 September 1948, File 600-01, Ibid.
27 Hugh G. Miller, Regional Director, to Files, 30 July 1956, File D30, Accession 79-67A-337,
Container 919498, Box 1, RG 79.
28 "Master Plan Development Outline, Capitol Reef National Monument, Utah," December 1953,


Determining The Fate Of Fruita: 1955-56

When Director Conrad Wirth embarked the National Park Service on its unprecedented 10-year development plan, Mission 66, the acquisition of private property in Fruita became possible. Because of management and resource conflicts with inholders in many of the more famous national parks, Wirth wanted to acquire as many these private lands as possible, either through purchase or exchange. A National Park Service report describing the general objectives of Mission 66 stated, "Development of these lands as private homesites or for commercial enterprises detrimental to the parks, the hindrance they present to orderly park development, and the problems they present to management and protection, warrant their acquisition at the earliest practicable date."29

This service-wide goal, along with anticipated Congressional funding allocations, must have been good news to the management staff at Zion. They could finally acquire the private lands of Fruita as part of the overall Mission 66 development plans for Capitol Reef National Monument.

In April 1955, Zion Superintendent Franke answered a general questionnaire on the problems and needs for all parks under his charge. Of the existing problems at Capitol Reef, he observed, "The alien lands, private and State, present the most serious threat, which threatens to hinder public use and destroy the area character....It is estimated that approximately $125,000 would purchase the key private holdings in area known as 'Fruita.' "

As far as concessions were concerned, Franke reported:

Public accommodations on private lands inside the boundary are undesirable and messy. The Capitol Reef Lodge and property should be acquired. Cost is probably $35,000....There appears to be no practical location outside the boundaries for centers of overnight use. The small agricultural community of Fruita is the most logical overnight center and its use and growth will not impair park values.30

Superintendent Franke believed that $160,000 would relieve Capitol Reef of a significant management problem as well as provide the needed space for future public facilities. The regional director in Santa Fe, however, was not so sure that all of Fruita should be acquired. In May 1955, Hugh M. Miller, who was in the process of moving from assistant to regional director, wrote Franke:

It seems to this office that probably we should not attempt to destroy this little community through the acquisition of all these tracts. The community

29 "Mission 66 for the National Park System," (National Park Service publication, January 1956), Wilderness Society Papers, Box 500, Folder 10, Western History Collection, Denver Public Library, Denver, 111.

30 Franke to Director, 11 April 1955, File D30, Accession 79-60A-337, Container 919498, Box 1, RG 79.
is in itself an "exhibit in place," a typical Mormon settlement which has retained much of its early day charm....In other words, it is our feeling that it is more interesting to have these properties occupied and the normal community life carried on than to acquire the properties, remove the buildings, and let the gardens revert to weeds and the ditches fall into disuse.31

To solve the problem of undesirable inholdings, Miller suggested that the monument boundary be redrawn so as to exclude most of Fruita.32

This 1955 debate, which was to decide Fruita's fate, was centered on three points:

1) Was there enough room in the tiny valley for the development of adequate, long-range National Park Service facilities and for private inholdings?

2) Was Fruita still a "typical Mormon settlement"? 33

3) If so, would it be better to simply redraw the boundaries and divest the inholdings?

Zion Superintendent Franke seemed to be the only one to answer "no" to all three questions. In passing on the regional director's memorandum to Kelly, Franke included a cover letter discussing his own opinion of Fruita's long range value. He wrote:

It seems to me that the idea of an exhibit in place featuring a typical Mormon settlement is far from the real picture and would neither reflect credit to us or to the Mormon pioneers. It is true that there are some colorful characters living in Fruita at the present time but that they are either typical or in keeping with the dignity of the National Park Service as 'exhibits in place' are concerned is questionable. When they are gone, the 'typical Mormon settlement' is likely to revert to a frontier slum town and not a dignified exhibit that is likely to add anything to the awe inspiring and natural beauty of Capitol Reef, or to the credit of the National Park Service.34

31 Miller to Franke, 6 May 1955, File L1415, Ibid.
32 Ibid. A revised boundary proposal that dealt with the west side concerns with the highway was then under consideration - see Chapter 9.
33 No one specified what traits would characterize a "typical Mormon village," and there probably were no references available to guide such a determination. Miller, Franke, and Kelly were basing their opinions on their own implicit, intuitive impressions and experiences. The National Historic Preservation Act, which established the National Register of Historic Places, was not passed until 1966, and historic districts were not designated until the 1970s. The value of cultural landscapes as historic resources was not recognized until the beginning of the 1980s.
34 Franke to Kelly, 13 May 1955, File L1415, Accession 79, 67A-337, Container 919498, Box 1, RG 79.
Superintendent Kelly opined that Fruita had indeed evolved from pioneer to modern in character over the past decade, but he argued against acquisition of all the Fruita inholdings:

If all the private lands are purchased, it means that the park service will have to operate the lodge and motel as concessions, and it also means that we would have to irrigate all the land in order to maintain shade trees and grass, since it would be unthinkable to let this little oasis revert to desert. Its green trees and fields are its greatest attraction, enjoyed by all the traveling public.\[35\]

Kelly also pointed out that speculation over the coming of the new highway had caused land prices to triple over their 1941 value, "beyond any real present value." This situation, coupled with Kelly's desire to preserve the Fruita "oasis," led him to make two recommendations:

1) The National Park Service should purchase the Max Krueger property, east of Kelly's residence, for construction of a campground and to ensure access to Hickman Bridge Trail.\[36\]

2) The monument boundary should be modified to exclude the remaining private lands of Fruita.\[37\]

Superintendent Franke disagreed. In a strongly worded memorandum to Regional Director Miller, he pointed out that Mission 66 charged the National Park Service with acquiring lands to provide for adequate public use. Franke argued that the monument boundary should not be changed to exclude Fruita, and that the Krueger property alone would be inadequate for monument developments. He stated:

[I]t is difficult for me to accept permanent abandonment and alienation of desirable lands within the area merely for the reason that funds for acquisition would be difficult to obtain. History has taught me that in our National parks and monuments we usually strangle ourselves by too little land with the result that objectives highly important are lost forever....History also teaches that a compromise with ideals and retreat to a line that can be defended before local citizens is a good method for increasing the 'headaches.' If a National park or monument is worthy let's fight for it. If the area is not worth that national status let's recommend its abolishment.\[38\]

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\[35\] Kelly to Franke, 24 May 1955, Ibid.

\[36\] Kelly was in the midst of a long-standing dispute with Krueger over public access to Hickman Bridge through Krueger's orchards.

\[37\] Kelly to Franke, 24 May 1956.

\[38\] Franke to Miller, 10 June 1955, Ibid.
Further, Franke argued:

We must, to be in tune with Mission 66, stop thinking of 15 years ago or of the present. Let us realize that by 1966, 250,000 visitors will come to Capitol Reef. These visitors will come in spite of our failure to properly plan and develop. To plan to develop only about 1/2 of 1 percent of the area for public use is not being realistic. We must accept the facts and that 6 or 7 percent of the area will have to be made available for public use, in order to satisfy that public, and that usable land is only around Fruita.  

Franke pointed out that piecemeal purchase of the Fruita inholdings (i.e., acquiring the Krueger property immediately and purchasing other properties as the need arose and/or as funding became available), would lead to administrative and maintenance problems. He wrote, "Minimum land needs in the Fruita area, from my viewpoint, are: all lands north or south of the Fremont River. My preference, if a choice has to be made, is for those lands north of the river, where we are now established."  

Franke recommended that all National Park Service buildings and visitor facilities be placed on public lands north of the river, but that no lodgings be provided there. Rather, lodgings could be provided by private businesses outside the monument and south of the river. Regarding the historic value of Fruita, Franke argued:

The worn out buildings are such that even the most pious Mormon would disown. Historic quaintness may be associated with the 'old timers.' However, their time in a permanent exhibit is but a passing moment. How can we build a typical 'Mormon Community' out of such temporary variables as human beings? These are transient values and we should not let our misguided sympathies for a few 'old timers' and their structures...divert our attention from the real values and significant points of Capitol Reef.  

Superintendent Franke believed that, given the limited area suitable for building in the Fruita valley, the National Park Service must choose between preserving "early day charm" and providing visitor facilities. To Franke, facilities were more important than sentiment, and Mission 66 provided an opportunity to upgrade the monument.

Notably, Franke's detailed, impassioned argument never mentioned Fruita's orchards. Presumably, he believed that all lands north of the river -- including the orchards -- would be needed for monument developments.

Unfortunately, there is no record of Director Miller's or Superintendent Kelly's responses to Franke's memorandum. Franke must have persuaded the regional director, however, because the initial drafts of Capitol Reef's Mission 66 Prospectus all included the "bold

39 Ibid.
40 Ibid.
41 Franke to Miller, 10 June 1955.
proposal to acquire all inholdings within the Monument which would include the entire town of Fruita." 42

This proposal caught the attention of National Park Service Director Conrad Wirth. He favored acquisition of the inholdings, pending a more detailed report.43 In response, Assistant Zion Superintendent Chester A. Thomas submitted a detailed table of the various private and state inholdings in the monument. The table showed:

Although there is a total of 686.92 acres of land in private ownership within the boundaries, (note this is exclusive of state owned lands) only some 130 acres is irrigated farm land suitable for development. The balance of 556 acres is wasteland very little of which would serve for development purposes. Much of it lies above the ledges of the canyon. It would seem that 130 acres of flat land is not an unreasonable acreage to request for a headquarters site and for development of campgrounds, residences and utility area. Although the acreage of useable land is small, some it is orchard land and has a high cash value.44

This table lists the 11 state and private inholdings (state lands are combined) within the monument in order of acquisition priority. The cost of purchasing the nine private inholdings in the Fruita was estimated at $123,000. The land was needed, according to Thomas, for visitor use, development, and roads and trails rights of way.45

In the final (April 1965) Mission 66 prospectus for Capitol Reef National Monument, proposed locations for the visitor center, residences, and campground were not specified.46 The prospectus was clear, however, about private inholdings in Fruita:

Privately owned lands within the monument occupy practically all of the land suitable for development for visitor use and administrative purposes...There is no justification for maintaining the old settlement of Fruita because it is neither typical of pioneer settlements nor is there any value that might enhance understanding or appreciation of the area.

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42 Robert G. Hall, Acting Chief, Western Office Division of Design and Construction, to National Park Service Director, 9 August 1955, File A9815, Ibid.

43 Chester A. Thomas, Acting Superintendent, Zion and Bryce Canyons, to Regional Director, 3 May 1956, Ibid. This memorandum refers to correspondence from the director regarding the Fruita issue. Copies of that correspondence has not been located. A memorandum from Director Wirth to Superintendent Franke, 23 January 1956, accepts the Capitol Reef Mission 66 Prospectus, pending a separate report justifying boundary revisions that did not involve Fruita. In that memorandum, Wirth wrote, "We favor high priority for acquisition of lands for all development areas." Director Wirth also believed that the costs of development were underestimated.

44 Ibid.

45 Ibid.

46 Mission 66 and Master Plan Drawings, Drawer 9, Folders 2-5, Capitol Reef National Park Archives, include some of the proposals.
Reduced to its proper perspective acquisition of the private lands within the monument is in accordance with Service policy and need not constitute a major undertaking.\(^{47}\)

This proposal for acquiring the private property for Mission 66 facilities would be the basis of all development plans during this period. Given the limited area available for development, the National Park Service felt compelled to purchase the inholdings. The effects of this move on residents, their homes, and their orchards, were of lesser concern.

The prospectus also called for eliminating all motels, rental cabins, and other lodgings from the monument, at least until 1966. Small concessions for gas, meals, souvenirs, and camping supplies would be permitted. The 50-car campground proposed for Fruita could be expanded to 100 sites, and could later be moved or supplemented by a campground at Pleasant Creek (once the land was acquired).\(^{48}\)

The prospectus does not detail plans for Fruita's buildings and orchards. The only mention of trees in Fruita is a recommendation to spray periodically the "large number of valuable shade trees in the area" to control parasites and disease.\(^{49}\) At least some of the old irrigation ditches would be maintained to water vegetation in the campground.\(^{50}\)

Additional water rights, which were to come with the purchase of the inholdings, would be utilized for irrigating vegetation in the campground and around public buildings. Planners evidently assumed that this, plus the water needs for the visitor center, residences, and other National Park Service buildings would require all available water rights. None of early Mission 66 planning documents or correspondence mentions the need to irrigate the Fruita orchards to protect these accumulated water rights. Further, no documentation has ever been found suggesting that the Fruita area be restored to its natural vegetative condition.\(^{51}\)

**From Removal To Restoration: 1959 - 1966**

As mentioned above, the early Mission 66 plans did not specify how land and buildings would be used once the private inholdings were acquired. These specifics could not be planned until the routing of the new highway, which would require right-of-way through the monument, was settled. Once it was realized that most of the land north of Sulphur Creek and north of the Fremont River after its junction with Sulphur Creek would be needed for this right-of-way, it became much easier to justify purchasing the remaining

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\(^{48}\) Ibid., 6.

\(^{49}\) Ibid., 11.

\(^{50}\) Ibid., 16.

\(^{51}\) Ibid., 19.
inholdings. The Brimhall, Sprang, Inglesby, Smith, and Krueger lands were acquired for the Utah 24 right-of-way and future developments. The Mulford and Chesnut properties were purchased for potential campground expansion, amphitheater, and picnic areas. This left the Brimhalls’ house and a portion of their orchards, Capitol Reef Lodge, and the Gifford farm as the only private property remaining in Fruita.

By the early 1960s, planners had a better understanding of the acreage needed for development. Because some areas were prone to flooding, and because the park service preferred to centralize monument facilities, the actual area available for development was quite restricted. This meant that Mission 66 developments would not necessitate eliminating all traces of the old Fruita community: structures in undesirable locales could be left standing. A 1959 draft master plan development analysis observed:

> [T]he physical characteristics of the narrow Sulphur Creek and Fremont River Canyons create a development problem. Occasional flooding of large areas topographically suitable for development precludes their use for housing or visitor center facilities. Sulphur Creek's meanders cut that Canyon into several areas, some of which are too small for any developments proposed.

If stream meanders and flooding precluded some areas from construction, what would be done with those “unusable” areas -- many of which were planted in fruit trees? Proposals offered in 1959 were contradictory. The 1959 master plan narrative acknowledges, “Fruit orchards watered by irrigation from the Fremont River cover a large percentage of the Canyon Floor and present a striking contrast to the red cliffs surrounding them.” However, preservation of the orchards was not addressed by management policy or actual development plans. In fact, 1959 master plan development drawings show the Fruita area as being occupied by National Park Service developments, or as empty floodplains. Orchards are not shown on these maps (Fig. 36).

Thus, just prior to purchase of most private inholdings, construction of the new highway, and construction of Mission 66 developments, there was no clear plan for management of Fruita. The decision to preserve these orchards and a few remaining buildings came several years later. While the reasons for this decision are not documented, they probably

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52 As of February 1, 1960, Capitol Reef National Monument was no longer under the Zion National Park Superintendent's supervision. Except for 1969-72, when the Southern Utah Group general superintendent in Cedar City supervised operations, after 1960 Capitol Reef managers would report directly to the regional director.


54 Ibid., 2.

55 Drawing NM-CR 3005, November 1959, part of 1959 Master Plan drawings, Drawer 9, Folder 2, Capitol Reef National Park Archives.
resulted from a combination of practicality and a slowly evolving acknowledgment that Fruita had some historic value.

Practical considerations were paramount, given that there was limited area available for development. Fruita’s settlers had built their homes on those few sites that were relatively safe from flooding, but which were close to water. Those happened to be the only practical places to build a campground, visitor center, utility buildings, and staff residences. Ultimately, operational and visitor needs took priority over preservation of existing conditions.

Further restricting National Park Service plans was the fact that some of the old Fruita homes were continuously occupied and their orchards cultivated throughout the development period of the early 1960s. These private lands and residences included the Fremont River farm where park employee Dewey Gifford and his family resided, Clair Bird’s Capitol Reef Lodge, and the Brimhalls’ life estate. Throughout the early 1960s, then, the decision to keep some of the orchards and several original buildings was made by default. Continued occupation of some homes would insure that part of historic Fruita would survive, at least for a time.

Managers would next have to decide how to manage Fruita’s orchards and any structures not razed to make room for National Park Service improvements. Over a period of several years, the idea evolved to administer these resources as an historic Mormon village. There was little guidance available for such an approach. National Park Service officials were left to work out their own unique -- and often contradictory -- guidelines.

The first task was to clarify the historical significance of Fruita’s remaining original buildings and structures. According to a draft 1961 master plan narrative, the legacy of the Mormon pioneers was found in "their landmarks [which] are the orchards, the cultivated fields and the houses and log school at Fruita."56

Within the same document, under the heading, "Design a Park Program that Has a Distinctive Capitol Reef Flavor" the potential value of a historic Fruita landscape was also acknowledged. It advised:

In addition to the usual planning and design practices, retain the distinctiveness by capitalizing upon the existing atmosphere created by the Mormon pioneers at Fruita through their more than fifty years of open ditch irrigation. Retain, so far as possible, their cultivated fields, orchards and certain buildings. Plan developments, including campgrounds and other public use areas, to take advantage of the existing ditch. Retain as many of the fruit trees and fields as possible and fit the use areas to the irrigation

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system. Lease out farming operations and fruit orchards, if necessary, to retain this character.\textsuperscript{57}

In another draft of this 1961 master plan narrative, someone wrote the marginalia, "Which buildings?" and then listed in order, "Sprang, Inglesby, log cabin at Mulfords, and schoolhouse." Of these, only the former Sprang cottage (which today is not considered historic under National Register criteria) and the schoolhouse were saved.\textsuperscript{58} The place of orchards in historic Fruita seemed assured, as the 1962 master plan drawings show the fruit trees intermingled with Mission 66 developments (Fig. 38).\textsuperscript{59} Even so, the idea of retaining the "flavor" of Fruita was contradicted by construction of the new highway right through the heart of the valley and by development of a new campground where orchards had stood. The conflict between historical preservation and the need to provide visitor and staff facilities had begun.

At the height of Mission 66 construction in 1964, a new master plan design analysis encouraged the purchase of the last two remaining private tracts, on which stood Gifford Motel and Capitol Reef Lodge. It further recommended expanding the campground from 53 to 230 sites, developing the Brimhall property as soon as it could be obtained, and eliminating the old superintendent residence once the new facilities were in operation. The orchards, vineyards, and pastures were determined to be part of the landscape, which should be preserved.\textsuperscript{60} Maximum irrigation of the Fruita area was to continue so as to maintain its water rights, orchards, and oasis character. To improve water distribution, the plan called for replacing, realigning, and otherwise improving irrigation ditches and flumes.\textsuperscript{61}

A September 1965 master plan, never approved by the regional office, specified that preservation of the "early pioneer atmosphere" would be accomplished by retaining "certain old buildings and portions of the fruit orchards." Fruita would be interpreted

\textsuperscript{57} Ibid., 4.

\textsuperscript{58} 1961 Master Plan Narrative, Draft (n.d.), Box 3, Folder 1, Capitol Reef National Park Archives, 5.

\textsuperscript{59} Drawing NM-CR 2301-I, August 1962, National Park Service, Denver Service Center Technical Information Center, Denver, Colorado (hereafter referred to as TIC).

\textsuperscript{60} "Master Plan for the Preservation and Use of Capitol Reef National Monument, Utah," Design Analysis, Chapter 5, General Development, corresponding drawing NM-CR-3005-D, 5; landscape quote taken from chapter on headquarters development. The location of the original documents is not known. A copy of Chapter 5 can be found in the Administrative History files and notes, Capitol Reef Unprocessed Archives. Other portions of this 1964 Master Plan can be found in notes of Rocky Mountain Regional Historian Kathy McKoy.

\textsuperscript{61} Ibid., Chapter 5, General Development, 5.
mostly with the aid of mimeographed leaflets and a taped message at the restored Fruita schoolhouse.\textsuperscript{62}

The 1965 master plan also acknowledges the regard of local residents for Fruita. In justifying issuance of a special-use permit to Worthen Jackson to maintain the orchards, managers observed:

Since the first settler came in 1882 the orchards of the old community of Fruita in the headquarters area of the park have been a source of fruit for the entire locality. Local residents take pride in this fruit orchard area. In order to retain the historic character of the area and to retain public relations these orchards are retained and are maintained by special use permit.\textsuperscript{63}

This is the first time that Mission 66 plans acknowledge local opinion concerning Fruita management. In the decades to follow, this local attachment to Fruita would become a key consideration in any management plan for the area.

By the end of Mission 66 development, Fruita had significantly changed. The Smith and Krueger houses, outbuildings, and sizable sections of their orchards were gone in the wake of the new highway right-of-way. A large portion of the old Brimhall property was now occupied by the monument residential area, and the new campground on former Sprang land south of the Fremont River had replaced fruit trees and pasture. The Inglesby house and cabins were gone, as were the buildings on the William and Dicey Chesnut property. The log cabin, fruit cellar, animal sheds, and corrals on the Mulford land at the southwestern edge of Fruita were also removed during this period.

While Fruita was definitely different, a surprising amount of the old private community remained. The schoolhouse, Holt/Chesnut house, Brimhall and Sprang residences, and almost the entire Gifford farm were still standing, as were two fruit cellars, two lime kilns, and the Pendleton rock walls. Most of the orchards, pastures, and irrigation system were also still intact. The Capitol Reef Lodge remained as well, although continuing clashes with owner Clair Bird compelled most National Park Service officials to urge its acquisition and removal as soon as possible.\textsuperscript{64}

At the beginning of Mission 66, it seemed as if the fate of Fruita had been determined: fruit trees and farms would be replaced by National Park Service facilities and visitor use areas. However, development limitations, continued occupancy of some houses, and the need to maintain newly acquired water rights delayed development while a growing appreciation of Fruita's qualities emerged. Ultimately, a large portion of the historic

\textsuperscript{62} "Master Plan of Capitol Reef National Monument," September 1965, Chapter 3, Management Programs Narrative, 5, 14. Location of originals unknown. Copy of this chapter found in Administrative History files and notes.

\textsuperscript{63} Ibid., 4.

\textsuperscript{64} See Chapters 4 and 6 for more information on Clair Bird.
landscape was preserved. Now park service managers had to determine what exactly could be done with all the inherited buildings and fruit trees.

**Managing Fruita As An Historic District: 1962-72**

As soon as the National Park Service acquired the inholdings, it turned over the management of orchards and fields over to Worthen Jackson, who paid $100 annually for a special use permit. Jackson, who spent summers with his family in the old basement house on the Sprang property, had previously managed orchards for Brimhall and Sprang. Since the National Park Service had little orchard experience or desire to invest time and money in tree maintenance, this arrangement was advantageous to both parties.\(^{65}\)

Under the special-use permit, Jackson was given all rights to fruit produced, provided he would preserve “the character of the land area in a similar manner as existed prior to the acquisition of the property, and...protect, through beneficial use, the water rights acquired with the land.” \(^{66}\)

Jackson was responsible for all orchard operations, including "ditch cleaning, proper fertilization, and pruning, weed control, proper irrigation, etc."\(^{67}\) Throughout the 1960s, Jackson, his son Kent, and hired help pruned the dead wood, sprayed the trees, picked the fruit, and cut the hay. They took orders from towns as distant as Salina and Circleville, and peddled the ripened produce door to door throughout Wayne County. The Jacksons also sold fruit from a produce stand near their house. In good years, their fruit business could be very profitable. Yet, it seemed every good year was followed by a late freeze or some other problem that reduced the fruit crop, and thus the profit margin, considerably.\(^{68}\)

There were occasional problems with the arrangement between Capitol Reef and Jackson. For example, in October 1968, concerns over potential health risks forced Superintendent Robert Heyder to halt Jackson's practice of selling canned fruit from his fruit stand.\(^{69}\) At other times, promised assistance from National Park Service maintenance crews was redirected to other projects.\(^{70}\) In early 1971, while the final steps toward national park

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\(^{66}\) Special-use permit language quoted in Letter to Editor, Richfield Reaper, 4 March 1971. A copy of this special-use permit has not been found.

\(^{67}\) Ibid.

\(^{68}\) Jackson, telephone interview, 11 August 1994. Superintendent's Log of Significant Events, October 1967, Box 4, Folder 9, Capitol Reef National Park Archives, mentions a meeting between Jackson and Superintendent Robert C. Heyder in which Jackson claims that he lost money during the previous year; also see Salt Lake Tribune, 25 February 1971.

\(^{69}\) Log of Significant Events, October 1968.

\(^{70}\) Jackson, telephone interview.
status were being taken by Congress, Jackson decided that he'd had enough. According to Jackson, new irrigation and fertilization requirements plus additional demands to maintain the hay fields were costing "more than the orchards would bring in for all fruit sold." Contributing to Jackson's frustrations were several consecutive late freezes during the late 1960s. Whatever the reasons for quitting, Jackson implied in a statement published by newspapers throughout Utah that, without him, the orchards would soon fall into disrepair.71

In an effort to counteract any negative publicity from Jackson's statements to the press, General Superintendent Karl T. Gilbert of the Southern Utah Group wrote a letter to the editor of the Richfield Reaper. According to Gilbert, Jackson had refused to provide the proper amount of fertilization, pruning, weed control, and irrigation as recommended by the Utah State University Agricultural Extension Service. Gilbert also maintained that, while the orchards were ultimately the responsibility of the National Park Service, "operation of the orchards should be the responsibility of the permittee, and should not involve the expenditure of public funds to ensure a fruit crop for the permittee." 72

By June 1971, Robert Sweet of Taylorsville, Utah had been granted the special-use permit for the orchards, and Superintendent William F. Wallace had promised that "realistic resources management practices [would] be used to upgrade the quantity and quality of fruit." 73 Sweet, however, lasted only one season. In 1973, the National Park Service issued special-use permits to local residents and organizations for the various fruit crops. The Torrey Ward of the Church of Jesus Christ of Latter-day Saints harvested the cherries, and local resident Colleen Shelley was responsible for the apricots and peaches. The Wayne County Jeep Posse was in charge of the apples and pears. The following year, the National Guard was contracted to take care of some of the fruit crops, but the allure of hunting season drew members away at the critical time, leaving bushels of fruit to rot on the ground.74

71 Salt Lake Tribune, 25 February 1971. Kent Jackson maintained that his father was continually frustrated with Capitol Reef Management - especially with Superintendent Wallace. The fact that he (Kent) was in college at the time and Worthen was over 60 years old may also have played a factor in his quitting (Jackson, telephone interview with Bradford Frye, 11 August 1994).


73 Salt Lake Tribune, 16 June 1971. The exact terms of this special-use permit are not known.

74 Kent Jackson, telephone interview. Capitol Reef personnel files and assistance from retired Capitol Reef maintenance worker Colleen Shelley helped establish dates and crop responsibilities for the period of the early 1970s. Also see David R. M. White, "'By Their Fruits Ye Shall Know Them': An Ethnographic
It soon became apparent that Capitol Reef National Park had to assume direct control of the orchards and fields in the headquarters area, and authorize the funds necessary for their upkeep. Nevertheless, the process of taking over full, active control of the orchards was slow. In 1973, Worthen Jackson's son Kent, who had helped his father manage the orchards as a teenager, was hired along with Richard Jensen to work as seasonal laborers in the orchards. In 1975, Emmett Clark, a permanent National Park Service maintenance employee, was selected by Superintendent Wallace to manage the orchards full time. Clark continued as orchard manager until his retirement in 1985. For several years following, Clark would return during fruit harvests to help run the pay stations for U-pick fruit. Kent Jackson became orchard manager in May 1985, following in the footsteps of his father.75

Other changes were also occurring in orchard management. For instance, a new underground irrigation system was installed in 1975, increasing watering efficiency and reducing the labor needed to keep the old, open ditches flowing.76 Perhaps most significantly, managers finally recognized the historical significance of the entire Fruita community, orchards and all.

**Attempts To Preserve Fruita: 1976 - 1979**

The Fruita schoolhouse was nominated for listing on the National Register of Historic Places and $10,000 were authorized for refurbishing the building in 1966. This action suggested that Fruita in its entirety might soon be officially recognized as an historic district.77 Nevertheless, managers continued removing buildings, adding new ones, and altering the landscape, not considering the effects on the area’s historical integrity.78

This trend changed in 1974 when Gerald Hoddenbach was hired as the first resource specialist at Capitol Reef National Park. Although hired as a research biologist, Hoddenbach soon developed a keen interest in the history of Fruita. His interest was first piqued by the history of his assigned residence, the old superintendent's house that had been built by Leo Holt and sold to the National Park Service by Alma Chesnut in 1944. From there, Hoddenbach began looking into other aspects of the old settlement's past,

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75 Kent Jackson, telephone interview with Bradford Frye, 11 August 1994; Capitol Reef personnel records.

76 Jackson, telephone interview.

77 Superintendent’s Monthly Reports, February-October 1966, Box 4, Folder 8, Capitol Reef National Park Archives; Salt Lake Tribune, 5 June 1966. The schoolhouse was officially listed on the National Register on 23 February 1972.

thereby launching the first investigation into Fruita history since Charles Kelly’s early years at Capitol Reef.79

Hoddenbach's research culminated in a draft cultural resource management plan in November 1974. In it, he proposed to create a "Fruita Living Community," combining existing structures and orchards with living agricultural history exhibits and possible historic building reconstructions (Fig. 38). The “Living Community” would illustrate early pioneer settlement and life as it existed in the 1920s, and would also “vividly represent and synthesize the lifestyle and agricultural methodology found in many such local communities.”80 According Hoddenbach’s research, “the height of development and population occurred about 1930 and settlers began to leave the valley in 1938. Thus, the most appropriate period in time to focus on seems to be 1920-1930.”81

Even in the final drafts of his plan, Hoddenbach struggled to define the interpretive emphasis and focus of the living community. For instance, in the November 10 draft he removed a reference to “Mormon” pioneer settlement and substituted “early,” instead. He also changed the name from “Fruita Living Community” to “Historical Fruita Community” in one place, and reduced the proposed size of the district from 300 to 200 acres.

Hoddenbach argued that such a historic living community would be representative of an agricultural and farmer's frontier under the National Historic Landmark Program, and would also meet the goals of the National Park Service guidelines for historic areas. The plan also included the first known list of historically significant structures within Capitol Reef National Park.82

The National Register multiple resources nomination forms were completed in September 1977. Included in the nomination were all structures that had existed in the Fruita area prior to the arrival of the National Park Service in 1937, as well as the Sulphur Creek lime kiln, the Behunin cabin (on private land owned by Wonderland Stages) and the Oyler Mine tunnels and related ruins. Also contributing to the historic district would be Fruita's abundant archeological sites -- primarily Fremont Culture petroglyph panels -- and the orchards. The focal point of the historic district was to be the Pendleton-Gifford farm. Finally, the nomination now defined Fruita's historic period of interpretation as the 1930s.83

79 See Hoddenbach's notes in Box 5, Folders 9A-D, Capitol Reef National Park Archives.


81 Ibid., 3.

82 Ibid., 1-2.

83 "National Register of Historic Places Inventory - Nomination Form," 9 September 1977, prepared by Barbara Wyatt, C/O Rodd Wheaton, Rocky Mountain Regional Office, Box 6, Folder 5, Capitol Reef National Park Archives.
This National Register nomination summarizes how past, current, and future management of Fruita were regarded in 1977. The nomination narrative stated:

Since emphasis was upon the spectacular scenery of the reef and Waterpocket Fold, Fruita structures were [torn] down, with few regrets, to make room for park amenities. Fruita was simply not recognized as an historical resource. Now the value of this isolated Mormon village is realized, almost too late. The structures that remain not only reflect early pioneer life, but also reflect the remarkable continuity of life in the 60 year period prior to Park Service acquisition. The Pendleton-Gifford Ranch stops the clock just prior to the point in time the national monument was formed. This decade, the 1930s, is about as representative of Fruita development as any other since Fruita's existence is not marked by a hiatus.84

Regarding the orchards, the statement continued:

More than 3,000 fruit trees at the park are of historic and interpretive value. Pear, apple, peach, apricot, and cherry trees occupy the historic orchard sites, as well as more recently cultivated areas. Though plans call for the abandonment of the non-historic orchards, historic orchards are considered as significant as the historic structures. The trees are not being nominated at this time.85

National Park Service managers had clearly stated that Fruita's remaining structures and orchards were of historical significance and should be preserved. However, the multiple property nomination emphasized individual buildings and structures, rather than the landscape as a whole. The concept of cultural landscapes had not yet been well defined or utilized. While Hoddenbach’s initial nomination was eventually rejected for “deficiencies in preparation,” his work was not fruitless. It would later be incorporated into the National Register nomination of the Fruita Rural Historic District, a vernacular cultural landscape that included all components — buildings, structures, orchards, fields, roads, and ditches — of Fruita.

Hoddenbach’s proposal to remove "non-historic" orchards was part of a new orchard management plan being devised even as the National Register nomination was in the submission process. In late September 1977, Superintendent Wallace circulated a preliminary "Historical Agricultural Management Area Plan" for public review and comment. According to the park’s press release, the plan would divide the headquarters area in four sub-zones:

84 Ibid., 10.
85 Ibid., 4.
1) **Historic Farming.** This sub-zone would include Gifford Farm, the Brimhall place, and Fruita Schoolhouse.

2) **Greenbelt.** This sub-zone would have five single-fruit orchards (as opposed to mixed stands of fruit trees) with pasture crops cultivated between them.

3) **Development.** This sub-zone would include park headquarters, residences, campground, and picnic areas.

4) **Private Ownership.** This sub-zone would include Capitol Reef Lodge and a small parcel at the junction of the Fremont River and Sulphur Creek.86

The goal of this plan was to maintain historic structures and the surrounding orchards and fields as they would have appeared in the 1930s. To meet that goal, park officials estimated that the number of fruit trees would have to be reduced by almost half. That proposal brought an immediate outcry from the residents of surrounding communities, demonstrating (perhaps to the surprise of the National Park Service) the magnitude and nature of local regard toward Fruita.87

At an Aug. 2, 1978 community meeting in Loa, newly appointed Superintendent Derek O. Hambly walked into a room of angry neighbors to hear their opinions of his predecessor’s plan. While many liked the park service recognition of the historic and cultural importance of Fruita, they were upset that so many fruit trees were to be cut down to duplicate the appearance of the 1930s. The historical era to be represented, they argued, was just an arbitrary date, and did not justify destruction of more recent orchards.88 Of course, it did not help Hambly that former Superintendent Wallace had already ordered the removal of approximately 500 trees -- including an entire prized peach and apricot orchard on land formally owned by Cass Mulford.89

Evidently, too, some local people used this occasion to vent frustrations lingering since the unpopular expansion of Capitol Reef a decade earlier. Overall, though, the group’s main concern was that the fruit-picking tradition at Fruita was coming to an end. Superintendent Hambly must have taken these complaints seriously, because after this meeting he revised the tree count. Instead of 1,700 trees in five single-crop orchards, Fruita would have approximately 2,500 trees in eight orchards. Some of these would be single-crop orchards, but others would retain mixtures of fruit trees. Since the park in


87 White, "By Their Fruits Ye Shall Know Them," contains excellent quotes from local residents on how they believed Fruita should be managed.

88 *The (Salt Lake City) Deseret News*, 4 August 1978.

89 Superintendent’s Annual Report, 1977, Capitol Reef Superintendent’s Files, 8; Kent Jackson, telephone interview with Bradford Frye, 11 August 1994. This peach and apricot orchard is now a grassy field named Hattie’s Field.
1978 had 2,563 fruit trees, this revised plan meant that few trees would have to be culled.  

For perhaps the first time, local residents had been given a voice in the management of historic Fruita, and they overwhelmingly favored preserving Fruita's orchards and remaining structures. Later, many of the participants in this hearing credited their protests over the 1977 plan with saving the orchards.

**Fruita Historic District: 1982 - 1988**

Through the efforts of Hoddenbach and other Capitol Reef personnel, the historical significance of Fruita was finally formally acknowledged by park managers. Needed next was a cohesive management plan that would treat Fruita as a holistic system instead of a group of isolated features. With such a plan, managers could better evaluate the effects of National Park Service actions on the historical integrity of Fruita.

At the time, though, the concept of cultural landscapes and their eligibility for National Register listing was not widely recognized or understood. Most nominations were multiple property nominations, based on a collection of separate features -- mostly standing buildings and structures. Because many of Fruita's buildings had been razed or significantly altered during Mission 66 development, Fruita as a whole appeared to lack the historical integrity required for a National Register multiple property nomination.

In the 1982 general management plan, the headquarters area is called "The Fremont/Fruita Archeological/Historic District." It encompassed 840 acres in the Fruita area, and included prehistoric rock art panels, historic period structures, and the historic scene. Fields and orchards were identified as contributing to resource significance. This district was being submitted for listing, along with the archeological/historic districts at Pleasant Creek, Capitol Gorge, the Oyler mine, and an individual nomination for the Behunin cabin.

According to the 1982 general management plan, the Fruita area was to be managed as a two-part historic zone. The preservation subzone would encompass "those areas that are significant because of their association with personages, events, or periods of human

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90 "Historic Agricultural Area Management Plan for Capitol Reef National Park," February 1979, prepared by Superintendent Hambly and approved by Deputy Regional Director James B. Thompson, File D18, Capitol Reef Historic Superintendent’s Files; *The Deseret News*, 23 February 1979. In other ways, this plan was very similar to the 1977 proposal. See Chapter 7 for more details on the various orchard management plans.

91 See White, "By Their Fruits Ye Shall Know Them."

92 "Final Environmental Impact Statement, General Management Plan, Statement of Findings," October 1992, Capitol Reef Superintendent’s Files, 20-21, 106-107. These nominations, dated 1977, are found in Box 6, Folder 5, Capitol Reef National Park Archives. According to the October 1989 Statement for Management, the nominations were returned in 1982 because of "deficiencies in preparation" rather than lack of resource merit.
history and prehistory. Included would be archeological sites, prehistoric rock art panels, historic period structures, and the historic scene.\textsuperscript{93}

The other adaptive-use subzone would include sites that had been modified in some way by the National Park Service. These areas included the headquarters/residence area, campground, roads and utilities, as well as the "Chesnut-Pierce" and Gifford houses, which were being used at the time for employee housing (Fig. 39).\textsuperscript{94}

The development alternative advocated by the 1982 general management plan called for removing Capitol Reef Lodge, employee trailers, and the Sprang house. This would provide an additional 2.8 acres of "historic pastoral setting." It is not clarified whether this land would be planted with fruit trees or left as open space. It was argued that this additional historic acreage would somewhat offset the plan to displace five acres of orchards with an enlarged Fruita campground. The CCC-built ranger station, which had been partially attached to the visitor center in 1964-65, was also to be protected from any future headquarters expansion.\textsuperscript{95}

Thus, by the early 1980s, the variety of historic resources in Fruita had been acknowledged and a definitive preservation and development plan had been devised. It seems, however, that park managers were still looking at each resource on an individual basis rather as part of a whole. Until managers could take the larger view, adequate protection and interpretation of Fruita would not occur.

In June 1984, the divisions of interpretation and natural resources each produced comprehensive management plans. The cultural resource management plan, written by Chief of Interpretation George Davidson, focused on the historic structures, whereas the natural resources management plan, prepared by Norman Henderson, was limited to insect and mammal management in the orchards.\textsuperscript{96} The two crucial components of the landscape were not yet being managed as one.

Davidson's background in historical interpretation was perfectly suited for helping to develop a Fruita historic district. In his 13 years at Capitol Reef National Park, Davidson had compiled historic photographs and oral history interviews from Fruita and area residents. He had also acquired historic farm machinery for display in orchards and fields, provided oral and visual interpretation of the Fruita schoolhouse and Merin Smith's old workshed, planted historic-variety fruit trees where the lodge once stood, and developed a visitor center exhibit centering on early Fruita. In addition, Davidson wrote a short, popular book on the people and lifestyles of historic Fruita, and organized a yearly historic

\textsuperscript{93} Ibid., 14.
\textsuperscript{94} Ibid.
\textsuperscript{95} Ibid., 107.
crafts demonstration fair known as Harvest Homecoming Days. Davidson did more to interpret Fruita than had anyone before him.97

Davidson's 1984 plan detailed the prehistoric and historic significance and interpretive themes of the Fruita area, and identified the need for maintenance of the remaining historic structures.98 In order to better document those who lived in or were acquainted with historic Fruita, Davidson proposed a comprehensive oral history program.99 The cultural resource management plan also proposed to plant trees to screen modern National Park Service developments from view. Wrote Davidson, "Both the GMP and National Register nominations now recognize the value of maintaining -- even recovering -- the rural, bucolic, atmosphere of Fruita."100 The proposed solution was the drafting of a historic scene enhancement plan that would soften the disharmony between new and old structures as well as provide guidelines for future developments.

In 1988, the revised orchard management plan finalized the idea of managing Fruita as an integrated cultural landscape. Influenced by Robert Z. Melnick's 1984 Cultural Landscapes: Rural Historic Districts in the National Park System, Chief Interpreter Davidson, Chief Ranger and Acting Superintendent Noel Poe, Resource Management Chief Norman Henderson, and Superintendent Martin Ott proposed nominating Fruita to the National Register as a rural cultural landscape. They argued, "[I]t is critical to maintain and preserve the total impression of an earlier day that is created by a balance of orchards, pastures, hayfields, and remnant historic buildings."101

Once aware of the possibility of cultural landscape designation, park managers seized upon it as a way to guide management of the various prehistoric and historic resources found throughout the headquarters area. Before such a management document could be produced, however, the National Park Service first had to determine whether Fruita met the criteria for listing as a rural cultural landscape.

**The Fruita Rural Historic District Debate: 1990 - 1994**

From 1989 through 1994, the Fruita landscape was the focus of two extensive examinations. First, in 1989, the National Park Service decided to contract a comprehensive, park-wide historic resource survey and multiple property nomination. One goal was to survey and evaluate both prehistoric and historic resources of the park and

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97 Davidson's *Red Rock Eden* (Torrey: Capitol Reef Natural History Association, 1986) is a good reference to the historic community of Fruita from settlement to early National Park Service presence in the area.


99 Ibid., 28.

100 Ibid., 32.

then integrate the two studies into a multiple resource nomination. The main objective, though, was to evaluate any potential cultural landscapes according to the instructions found in National Register Bulletin 30.\textsuperscript{102} The scope of work was issued in early 1990 and that September, John A. Milner Associates, a Philadelphia firm with experience in cultural resource management and historic preservation, was selected as the contractor for the $51,600 project.\textsuperscript{103}

Chief of Resources Management & Science Norman Henderson, whose division was responsible for both natural and cultural resources, was to be the park contact; Supervisory Regional Historian Michael Schene was the technical representative and overall coordinator for the project.\textsuperscript{104}

Milner Associates' project manager, principle researcher, and editor was Dr. Patrick O'Bannon, who had extensive experience with historic structure nominations in the eastern United States. In mid-October 1990, O'Bannon came to Capitol Reef to meet with Schene, Regional Archeologist Adrienne Anderson, and the park's management staff. During a quick reconnaissance of the park's resources, the contract's specific details were discussed. Participants concurred that a cultural landscape study or report would not be required of the contractor, after all.\textsuperscript{105} Park managers, however, did request that O'Bannon continue to evaluate the Fruita's eligibility as a cultural landscape.\textsuperscript{106}

The author of this administrative history served as guide and associate park contact for O'Bannon through the rest of 1990 and early 1991. Throughout his on-site investigations during November and in follow-up conversations, O'Bannon voiced the opinion that Fruita had been significantly and adversely impacted by National Park Service developments. He concluded that National Park Service management of Fruita, particularly during development of the 1960s, had destroyed historical integrity and rendered the area ineligible for nomination as an historic district or landscape.\textsuperscript{107} In his final survey report, O'Bannon wrote:

\textsuperscript{102} A copy of this scope of work is found in the Cultural Resource Management Files, Resource Management Division, Capitol Reef National Park (hereafter referred to as Capitol Reef CR Files).

National Register Bulletin 30, "Guidelines for Evaluating and Documenting Rural Historic Landscapes," is the most applicable bulletin. While this document will not be examined here, it is recommended reading for anyone interested in knowing how Fruita's historical integrity was evaluated.

\textsuperscript{103} Ibid.

\textsuperscript{104} Richard T. Kelly, Regional Contracting Officer, to John Milner Associates, 28 September 1990, Capitol Reef CR Files.

\textsuperscript{105} Schene to O'Bannon, 29 October 1990, Ibid.


\textsuperscript{107} In a telephone interview, Cathy Gilbert (National Park Service Landscape Architect, Pacific West Region), on July 28, 1994 stated that O'Bannon's perspective was not flawed - only a difference of
Perhaps the most significant result of the survey was the determination that the Fruita area, the core of the park and a former Mormon farming community, had suffered a considerable loss of integrity during the past fifty years. Photographs, homestead proofs, tax records, and other documents clearly indicated that the present appearance of Fruita's cultural landscape and built environment differ significantly from their pre-1940 appearance. Consequently, it was determined that Fruita no longer retained sufficient integrity to warrant designation as a historic district or cultural landscape.108

O'Bannon did, however determine that 13 historic resources in the Fruita area were individually eligible for nomination to the National Register of Historic Places. Ten of these qualified under the "Mormon Settlement and Agriculture" context, while the remainder were associated with CCC developments prior to 1942. O'Bannon also regarded nine other structures throughout the rest of the park to be eligible for nomination. These included Behunin Cabin, Oyler Mine, the Pioneer Register, the Hanks dugouts on Pleasant Creek, CCC improvements on old Utah 24 (Scenic Drive), Oak Creek Dam, and the Upper Cathedral Valley line cabin and corral. Thirty-five other sites or resources investigated within the boundaries of Capitol Reef National Park were determined to be non-contributing and not eligible for National Register protection.109

As O'Bannon was writing his recommendations, an unrelated archeological survey of Capitol Reef National Park from the Fremont River to Pleasant Creek was also in progress. Under a professional services contract with Archeological-Environmental Research Corporation, F. Richard Hauck, principal investigator, undertook an exhaustive rock art and site inventory and multiple property national register documentation. These reports were to be integrated with the results of the historic survey into a multiple property nomination.110

O'Bannon's recommendations were accepted by both Michael Schene and Roger Roper, of the Utah State Historic Preservation Office. Capitol Reef and other Rocky Mountain Region officials, however, were dissatisfied. They criticized the generalized statements and lack of specific information on many sites included in the original scope of work, but were particularly upset about O'Bannon's assessment of Fruita. At a time when Superintendent Charles Lundy was contemplating building more employee housing, and park and regional officials were preparing the groundwork for a new general management opinion. She believed that he continued to look at Fruita in terms of the actual remaining structures rather than as a historic agricultural landscape and its more flexible emphasis on spatial patterns.

109 Ibid., Summary of Results.
110 See Lee Kreutzer to Files, 5 February 1993 for a summary of correspondence, Capitol Reef CR Files. These reports have never been officially accepted or approved by the regional office.
plan, guidelines for managing Fruita were desperately needed. National Park Service staff, believing that Fruita would be found eligible for listing as a cultural landscape, thought a National Register nomination would help provide that direction. O'Bannon's conclusions, then, were a surprising disappointment.\(^{111}\)

The dissatisfaction over O'Bannon's recommendations caused park and regional officials to look elsewhere for an alternative evaluation. Even before Milner Associates submitted its final draft in June 1992, Historic Landscape Architect Cathy Gilbert, of the Pacific West Regional Office, was invited to reassess Fruita's potential as a cultural landscape. After a scope of work was finalized in May 1992, Gilbert arrived at Capitol Reef with Kathy McKoy, a historian from the Rocky Mountain Regional Office, to examine Fruita.\(^{112}\) Gilbert had previously worked on historic landscape reports and designations for several National Park Service areas in the Pacific Northwest and was well versed in the concepts needed to evaluate the potential of Fruita as a cultural landscape.\(^{113}\)

After a week of preliminary investigation, Gilbert concluded that Fruita retained enough spatial and system integrity to be eligible for nomination as a rural historic district. As Gilbert explained it, a landscape is made up of small, medium, and large scale components. Her initial impression was that the medium and small scale components (buildings, roads, and individual orchards) had changed over the last 50 years, whereas spatial organization, cultural response to natural features, vegetation, and land use patterns had remained intact. This was enough to qualify Fruita as a rural cultural landscape.\(^{114}\)

In September 1992, Gilbert and McKoy completed a cultural landscape assessment, which established Fruita as a landscape worth protecting. The introduction of this document states:

\[\text{[T]he emphasis [of this report] is on evaluating the landscape as a system rather than as a series of isolated features. This perspective is fundamental to understanding the landscape on several scales of significance and in assessing the type and degree of change that can occur before integrity is lost. In any cultural landscape some characteristics will carry greater weight and value than others. In an agricultural landscape the presence of large-scale historic relationships, patterns of use, and overall organization are among the most significant characteristics. In this regard, individual structures were considered as one of many types of features, patterns, and relationships that contribute to the overall landscape organization, land use,}\]

\(^{111}\) See correspondence regarding draft reviews, Capitol Reef CR Files; Charles V. Lundy, Superintendent, telephone interview with Bradford Frye, 28 July, 1994, Capitol Reef Unprocessed Archives.


\(^{113}\) Kathy McKoy (formerly McCraney), Trip Report, July 30, 1992, Capitol Reef CR Files.

\(^{114}\) Ibid.
response to natural features, and cultural traditions. While some aspects of the landscape have changed in Fruita, the large-scale patterns and relationships have a strong degree of integrity and contribute to the historic character, feeling, and association of the district as a whole. It is recommended that this significant cultural landscape be nominated to the National Register of Historic Places as the 'Fruita Rural Historic District.'

In evaluating the individual features within this rural, agricultural landscape context, Gilbert and McKoy added six eligible resources to O'Bannon's list. These included the Fruita orchards and fields, the irrigation system, and the Holt house and Pendleton lime kiln and stone walls (Fig. 40).

Determining Fruita's eligibility, however, was only the first phase of the cultural landscape evaluation. Next, an extensive cultural landscape report was initiated, to be completed by Gilbert and McKoy by April 1993. This document would identify the character-defining features of the landscape and provide recommendations for ensuring historic integrity of the district during development planning.

Meanwhile, the Determination of Eligibility for the Fruita Rural Historic District was forwarded to the Utah State Historic Preservation Office (SHPO) for review. That office concurred with Gilbert and McKoy's assessment and with the determination of eligibility.

During this process, the Utah SHPO wondered whether Fruita really was a "typical Mormon village." The National Park Service asked Dr. Charles Peterson, a highly regarded expert on Utah and Mormon history, for his opinion on the matter. Peterson responded that there were several ways in which Fruita could be called "typical." For instance, the role of the church and the spatial organization at Fruita were different from other rural Mormon towns. However, he also argued that habit, family, and response to environment were equally important qualities of "Mormonness." He also pointed out that geographic constraints limited Fruita's spatial composition, such that typical Mormon


116 Ibid. Also see Gilbert to Chief, Cultural Resources Division, Rocky Mountain Region, 21 September 1992, Capitol Reef CR Files. During preparation of the cultural landscape report, the "mail tree" and Fruita portion of Scenic Drive were "unofficially" evaluated as contributing resources.


119 Martin to Ponce, 26 October 1992, Capitol Reef CR Files.
patterns of landscape use could not be adopted by settlers. Peterson concluded that Fruita was typically Mormon, without necessarily being a "typical Mormon village." While this was a minor point in determining eligibility, the degree to which Fruita has represented the Mormon culture has been difficult for park managers to ascertain.

In July 1993, Gilbert and McKoy submitted their draft cultural landscape report. While the resource history and the analysis and evaluation of specific features within the landscape report are extremely valuable, the recommendations for future management decisions will no doubt prove the most useful. Gilbert "targeted the landscape report to provide the framework or parameters for making decisions." Among the 60 specific recommendations concerning management concepts, circulation patterns, vegetation, orchards, and structures were the following:

1) All contributing and thus nominated landscape patterns, relationships and features should be preserved.

2) The rural character of Fruita should be retained, meaning approximately 60 percent of the 65 acres in agricultural use should be orchards and 40 percent should be open pasture or field.

3) There should be responsive management of the other resources within the Fruita district -- including natural slopes and cliffs and the riparian community along the stream courses -- with both natural and cultural resource specialists involved in the management of the area.

4) The campground is an intrusive element which should either be removed or screened. The orchards and structures of Capitol Reef's most heavily used area had finally been integrated into a long-range proposal for management, interpretation, and protection. For the plan to work, however, managers must view Fruita from the perspective of a holistic, interrelated system in which future National Park Service development respects the spatial integrity of the historic agricultural landscape.

The cultural landscape report, together with the cultural landscape assessment and O'Bannon's historic resource study and survey, have contributed substantially to filling a management void at Capitol Reef National Park. The exhaustive research of primary documents, coupled with the application of new concepts of historic landscape protection and management, provides the background and guidance needed to make educated decisions regarding Fruita's multiple resources.

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120 Ponce to Peterson, 20 November 1992, and Peterson to Ponce, 28 December 1992, Ibid. Peterson's four-page letter goes into detail about the cultural influences on Fruita.


Figure 36. 1959 Master Plan.
Figure 37. 1962 Master Plan, Fruita area roads and trails.
Figure 38. Proposed historic agricultural area, 1977.
Figure 39. Park management zoning, 1982 General Management Plan.
Figure 40. Fruita Rural Historic District, Cultural Landscape Assessment, 1992.
### CONTRIBUTING RESOURCES

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Interviews


CHAPTER 15

MINING AND RELATED ENCROACHMENTS AT
CAPITOL REEF NATIONAL PARK

"None of the citizens of Wayne County have become wealthy through the discovery and exploitation of mineral deposits."¹ Thus a local history of the Capitol Reef area sums up mining activities in and around Capitol Reef National Park from initial settlement through the end of the 20th century. Nonetheless, mining did afford some people a living.

Miners were free to pursue their dreams of a mother lode until the National Park Service arrived in 1937, with the creation of Capitol Reef National Monument. Even after the monument and later national park were established, some miners continued to excavate within the boundaries of the supposedly protected lands. In more recent times, the effort continued on an even larger scale as various attempts were made to strip mine coal and tar sands, drill for oil and gas, and build coal-burning power plants.

While long-term impacts from mining at Capitol Reef have been relatively limited, this fact is attributable more to a lack of success than to a lack of trying: local mines were just marginally successful. If the economic climate changes, making the local low-grade ores and deposits more valuable, there will no doubt be renewed attempts to harvest the mineral resources on lands surrounding Capitol Reef National Park.

The history of mining and encroachments at Capitol Reef can be broken down into four distinct phases: 1) the early, largely unsuccessful search for precious metals, "that myth of easy money"²; 2) the uranium boom of the 1950s; 3) mining in the expanded monument and later national park; and 4) recent large-scale encroachments from oil and gas exploration, coal strip mines, and power plants.


² C. Gregory Crampton, Standing Up Country: The Canyonlands of Utah and Arizona (Salt Lake City: Peregrine Smith Books, 1983), 120.
The Early Search For El Dorado

The structural geology necessary for large deposits of valuable oil, gas, or minerals is generally absent from the Waterpocket Fold country. This, however, did not stop early pioneering prospectors from viewing the varied, colorful rock layers as untapped potential. After all, in a land that is little else but rock, there must be some kind of riches to be had.

The scientific surveys toward the end of the 19th century were the first to describe the scenery and resources of the area. They concluded that hundreds of millions of years of sedimentary geology had been warped and then punctured with later plutonic upthrusts to form the rock layers found in south-central Utah. The numerous exposed sedimentary and volcanic strata were bound to hold a little bit of everything. Observed valuable minerals included copper, uranium, gypsum, silver, and gold. Several deposits of coal were also noted. Oil seeps were found near the mouth of the Escalante River, charging speculation that oil and gas would be found in some of the uplifted country surrounding the Waterpocket Fold. Virtually every report, however, predicted that only coal would be found in any abundance.3

Regardless of these studies, adventurous prospectors came to see what might lie in the rocks, streams, and sandbars. Reports of prospectors searching in the Henry Mountains, in the Colorado River canyons, and along the Waterpocket Fold date to the 1870s.4 The first known prospectors through the Capitol Reef area were J. A. Call and Walter Bateman, who carved their names and the date September 20, 1871 just west of the Capitol Gorge narrows. These two men, presumably on their way to the Colorado River

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4 Gregory and Moore, The Kaiparowits Region, 147.
or Henry Mountains in search of gold, were representative of the fortune hunters who pre-dated permanent settlement of the area by a decade.\(^5\)

By 1883, Cass Hite discovered fine traces of gold in the sandbars of the Colorado River within Glen Canyon. Hite's findings sparked a minor rush into one of the most remote and rugged areas of the country. With several hundred prospectors congregating in the isolated, lawless area, some of the first arrivals set up their own mining district to create order and establish the legitimacy of their own claims. This Henry Mountain Mining District, formed by nine men on December 3, 1883, set boundaries and mining law:

The boundaries of the district followed the Colorado from the mouth of the Dirty Devil to Halls Crossing, thence along the Waterpocket Fold to the "Big Sandy" (Fremont River), thence to the Dirty Devil, and thence to its mouth. The regulations specified the amount of 'discovery work' to hold a claim; qualifications for membership in the district were set out; penalties for 'claim jumping' and 'other fraudulent dishonorable conduct' were specified; rules for making amendments were given.\(^6\)

These first mining regulations in the area showed these miners to be little different from those of earlier gold rushes. The Glen Canyon miners observed the federal mining laws of 1866 and 1872 and then added their own local rules to fit the existing conditions.\(^7\) While the Glen Canyon gold rush had several peaks and valleys, the most activity took place between 1886 and 1889. Virtually every canyon opening and sand bar was explored and placer mined, some with remarkable but short-lived success. A sand bar named the "California," for example yielded almost $10,000 of gold. But most gold was too fine to be recovered by contemporary technology, and many miners left in frustration. One product of this gold rush, however, was the development of supply roads into the area, including the upgrade of the cattle trail down the east side of the Waterpocket Fold, and the establishment of a miner's trading station at Hanksville in 1884.\(^8\)

Although the flour-like consistency of the sandbar gold suggested that the mineral had been washed a long distance downstream, miners combed the nearby Henry Mountains in search of the mother lode.\(^9\) By 1890, Jack Sumner, who had been with John Wesley Powell on the 1869 expedition through the Grand Canyon, and his partner J. W. Wilson, found a fissure of gold at the head of Crescent Creek on the east side of Mount Ellen. They named their mine the Bromide, because of the ore's similarity to bromide ore Sumner had seen in Colorado. A five-stamp mill was erected on the site to pulverize the rock and

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6 Crampton, Standing Up Country, 125.
7 Ibid., 126.
8 Ibid., Gregory and Moore, The Kaiparowits Region, 147-148.
9 Gregory and Moore, 147.
separate the ore. It would not be long before the boom town of Eagle City was erected just down the hill. But despite the excitement, the mine and town quickly played out:

Besides a dozen homes [Eagle City] had a hotel, two saloons, a dance hall, three stores, and a post office. The Denver and Rio Grande Western Railroad made preliminary surveys of a route from the main line at Green River to Eagle City in anticipation of building a branch line when the mines could produce 100 tons of ore daily. But most of the prospects proved too small. The Bromide fissure paid well for a short time but the gold was confined to a pocket and the mine could no longer sustain the town. By 1900 Eagle City had become a ghost town and today a single lone cabin marks the site.10

A few other attempts were made to extract gold from the Henry Mountains and the Colorado and San Juan Rivers during the 1890s. The most notable was Robert B. Stanton's failed Hoskinini Company dredging operation near the mouth of Bullfrog Creek. The gold continued to be either too fine or scarce and the harsh, isolated landscape persuaded most prospectors to venture elsewhere in the search for the mythical mountain of gold.11

Other Early Attempts At Mining The Waterpocket Fold Country

Closer to Capitol Reef, copper and oil exploration occurred on the modern park boundaries through the 1920s. Southwest of Fruita is the uplift known as Miners Mountain. While it is unclear who named it this, the name probably was derived from several copper and lead deposits discovered on its exposed southeastern flanks. A geologist's report in 1920 noted, "For many years intermittent prospecting for copper has been carried on, and a few hundred pounds of high-grade ore is reported to have been shipped....In the development of the deposits several shafts have been sunk to depths of 30 to 50 feet and short tunnels have been driven."12

Unfortunately, little else is known about who discovered the deposits or when the last ore was mined on Miners Mountain. By 1963, these mines were reported to be "chiefly caved and inaccessible" with no evidence of recent copper production. Although the copper deposits, located in the Sinbad Limestone, were regarded as colorful, the deposits were small and the copper content of the rock was low.13

10 Hunt, Geology and Geography of the Henry Mountains, 18.
11 The story of Stanton's dredge is best told in Crampton, Standing Up Country, 138-144; also see Hunt, 18, and Gregory and Moore, 147-148.
12 B. S. Butler and others, The Ore Deposits of Utah, 632.
13 J. Fred Smith, Jr. and others, Geology of the Capitol Reef Area, 82.
Nearby, less valuable but more practical limestone was quarried. The stone was excavated either from the vicinity of Grand Wash or up Sulphur Creek west of the modern visitor center, broken into small slabs, and heated at high temperatures in the lime kilns located on Sulphur Creek and near the present Fruita campground. In this way the limestone was converted to powdered calcium oxide for use in mortar, plaster, and whitewash. Another reported use was as an insecticide on the Fruita orchards. The lime kilns were active in the Fruita area from about the 1890s to 1930s, when they were last used to make mortar for the Caineville school. How much limestone was actually used and the specific locations in which it was mined are unknown.14

About 25 miles south, on the northwestern base of Wagon Box Mesa, there was a pioneering attempt to drill for oil during 1920-21. The Ohio Oil Company hauled the derrick, and associated equipment by truck up to the extremely isolated site by way of the old Halls Crossing road through Silver Falls Canyon. Supplies were also driven down from Notom through the mouth of Muley Twist Canyon and up the steep switchbacks of that Halls Crossing road to the drilling site. This operation was a source of great curiosity to the sleepy ranch town of Boulder, and several parties of sightseers ventured out to see the drilling progress. At reaching a depth of over 3,200 feet, the hole was abandoned on Nov. 9, 1921 for lack of oil.15 Another drilling operation near North Caineville Mesa the following year also yielded little.16

Uranium and coal mining, which would later prove to be the most significant threats to national park lands in the area, also occurred on a limited scale during the early 20th century. Coal was first used for heating boilers at gold mining camps on the Colorado River. Then, about 1908, a coal mine was carved out of the badlands around Factory Butte, east of the Waterpocket Fold.17 This mine produced relatively small amounts of coal needed for local domestic uses. The area’s large coal deposits would not become a significant concern for many more decades.

Uranium, on the other hand, has always been the most marketable mineral found within the Waterpocket Fold country. The most historically significant uranium mining operation in the monument was the Oyler Mine at the head of Grand Wash, approximately two miles south of Fruita. First filed on in late 1901 by Thomas Pritchett and H. J. McClellan, the site was initially called the Nightingale Mining Claim. In early 1902, the "Little Jonnie"

14 Lenard Brown, Historical Survey and Base Map (Washington, D.C.: U.S. Department of Interior, National Park Service, Division of History, 30 June 1969), 9-12, gives a very detailed account of how the lime kilns were used.


17 Hunt, Geology and Geography of the Henry Mountains, 20.
claim was filed in virtually the same spot by Torrey residents Willard Pace and James and Allen Russell. Gold, silver, and copper were listed as the minerals they were hoping to find. Then on Jan. 1, 1904, Thomas E. Nixon and Jack Sumner (the same Sumner of Powell Expedition and Bromide Mine fame) filed on the same spot. They dug two tunnels into the sandstone and apparently extracted a little ore. Nixon and Sumner may also have begun the unfinished building near the entrance of the mine. Nixon kept title to this claim until 1911, when he sold part to Jacob Young and T. J. Jukes. Then the claim apparently lapsed. M. V. "Tine" Oyler of Fruita was next to file on the claim, which he did on Jan. 1, 1913. From then until 1937, the area around the Oyler Mine was filed on no fewer than 75 times.18

The history of the Oyler Mine is complex and fraught with legal disputes between claimants and the various federal agencies, including the National Park Service, Bureau of Land Management, and the Atomic Energy Commission. Since the mine's history has been previously examined in detail by historians Lenard Brown and Patrick O'Bannon, it will only be briefly addressed here. Instead, some of the other uranium prospects found throughout Capitol Reef National Park, previously overlooked due to the concentration on the Oyler Mine, will be explored.

When establishment of Capitol Reef National Monument was proposed in the early 1930s, there had been a few, mostly unsuccessful attempts to mine in the Waterpocket Fold country. Sporadic efforts to extract gold, oil, copper, and uranium had shown that, while many different minerals occur in the area, few existed in quantities that would make the backbreaking labor of mining worthwhile.

At this time, however, the federal government actually encouraged mineral exploration on public lands. There was little regulation of mining, other than the 1872 Mining Law that was intended to standardize claims, rights, and the amount of work necessary to avoid forfeiture. Thus, as time went on, even national parks and monuments were not exempt from mining claims.

The Start of the Uranium Boom

During the early 1950s, Capitol Reef National Monument was opened to the uranium frenzy sweeping the Colorado Plateau. After development of the atom bomb and the resulting nuclear arms race, the Atomic Energy Commission had wartime-like powers over the federal land-use agencies such as the National Park Service. Spurred by price supports, thousands of ill-equipped, would-be prospectors flooded the area with their scintillators and Geiger counters in search of radioactive uranium. Mining claims that had

18 Lenard Brown, Historical Survey and Base Map. 13-15. Brown's is the most comprehensive examination of the history of the Oyler Mine, which has been nominated several times for the National Historic Register. Other sources are Charles Kelly, "History of Uranium Mining in Capitol Reef National Monument," December 1953, Charles Kelly Unpublished Writings, Capitol Reef Unprocessed Archives, 1-2; and O'Bannon, "Capitol Reef National Park," 27-33.
previously been invalidated with the creation of the monument in 1937 were reclaimed, updated, or both. Shafts were dug or dynamited, and miles of road were cut, even into the sheer sides of cliffs. Over 10,000 claims were filed on adjoining lands, which later were included within the present national park boundaries. The only protection the monument had was its one-man staff: Charles Kelly.

**Oil Drilling Sites Dot The Landscape**

Besides uranium, oil prospects were the only other recorded mining activity throughout the early years of Capitol Reef National Monument. About 20-30 miles north of the monument in Emery County, several test holes were drilled in the late 1940s' Last Chance oil and gas fields. While the gas finds were fairly significant, the few oil stains discovered were not. In early 1949, Monument Custodian Charles Kelly reported that another prospective oil well was to be drilled "a short distance north of the monument boundary." To access this site (presumably the abandoned drill hole on Little Sand Flats), Kelly heard, a road was to be built up the cliff behind Chimney Rock, into the head of Spring Canyon, and then north through a branch of Spring Canyon to the site. The road was never built, and the park has no record documenting why the oil company abandoned the idea.

In 1951, a small section of road was proposed in the southwestern section of the monument to gain access to an oil drilling site on state land south of Sleeping Rainbow Ranch on Pleasant Creek. Again, there is no record as to how this was resolved, or if any drilling actually occurred. That same year, the Hunt Oil Company of Dallas, Texas began its search for oil in the area. Throughout the early 1950s, the Hunt Oil Company drilled several test holes in the Circle Cliffs area and placed a scattering of drill sites in the Tantalus Flat area west of the monument. The Standard Oil Company also proposed to drill an oil well south of Notom. Again, there was little to show for all this effort.

**Uranium In The Waterpocket Fold**

Although abandoned oil drill holes dotted the landscape during the 1950s, the uranium boom, occurring at the same time, was by far the most significant mining activity in

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20 Kelly to Zion Superintendent, 31 January 1949, File 630 Part 2, Accession 79-60A-354, Box 2, Records of the National Park Service, Record Group 79 (RG 79), National Archives - Rocky Mountain Region, Denver, Colorado (all RG 79 references are from NA-Denver unless otherwise noted).

21 Kelly to Zion Superintendent, 29 July 1951, File 801-03, Ibid.

Capitol Reef. Before delving into uranium mining within the monument, however, it is important to briefly discuss where the uranium was potentially located.  

In the Waterpocket Fold country, uranium is usually found in two sedimentary layers. The one most often exposed at Capitol Reef is the Shinarump, lowest member of the Chinle Formation. Most of the uranium in this stratum lies near the contact between the Shinarump and the underlying Moenkopi mudstones. The Shinarump is a coarse sandstone and conglomerate mixture laid down by a massive river drainage system over 200 million years ago. The plant material trapped along those ancient river channels would become the primary component of uranium. When the Waterpocket Fold was uplifted and eroded eons later, the Shinarump was exposed in discontinuous outcroppings all along the western side of the Waterpocket Fold.  

The second stratum with locally high concentrations of uranium, the Salt Wash member of the Morrison Formation, is exposed in several spots along the eastern side of the Fold (Fig. 41). These exposures constitute almost 60 linear miles of radioactive materials, which made the Capitol Reef region particularly susceptible to the uranium boom. However, concentrations of high-grade ore were minimal in this region, and transportation costs were so high that only relatively small amounts of ore were ever taken from either the monument or later park lands. Uranium mining did provide some local people with an income, but it did not make them rich.

_Uranium Boom Comes To Capitol Reef_  

While the Oyler Mine was obviously the most significant claim within the new national monument boundaries, there were seven other claims in the mining record books as of 1941. None of these, including the Oyler Mine, was even taken into consideration when Roger Toll made his initial monument investigation in 1932. In Preston Patraw's 1935 report, he noted briefly that "previous research [had] failed to reveal the presence of minerals of sufficient quantity for commercial exploitation."

In 1941, the National Park Service asked the General Land Office to investigate the validity of the eight unpatented mining claims within the new national monument. Walter Koch, sent to investigate, reported that "the land was non-mineral in character and no minerals had been found within the claims in sufficient quantity to constitute a valid

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23 See Smith et al., *Geology of Capitol Reef Area*, 78-82, for an excellent scientific explanation of how uranium is formed and where it could be found in the area.  

24 Ibid.  

25 Ibid., 70-71.  

General Land Office Commissioner Fred. W. Johnson concurred with Koch's conclusions and canceled every claim in the monument on Nov. 25, 1941. Notices were sent to all claimants informing them of this decision and specifically stating that all protests to this action must be received in writing within 30 days by the General Land Office in Salt Lake City. A final decision was delayed until October 1942 because several claimants could not be contacted by registered mail. On October 7, 1942, the General Land Office Commissioner, having followed the required procedures, declared all claims within Capitol Reef National Monument null and void.28

This decision to place all monument lands off-limits to mining was not questioned until the beginning of the uranium boom in 1948. Perceived threats to national security enabled the recently created Atomic Energy Commission to sponsor the "first federally-controlled, federally-promoted and federally-supported" mining boom in the nation's history. The unique geology, exposed rock, and enormous amount of unclaimed public domain made the Colorado Plateau an appealing target for modern day 49-ers.29

Activity within Capitol Reef National Monument began almost immediately. On June 15, 1949, Willard Christensen appealed the 1942 decision of the General Land Office canceling claim to the Oyler Mine site. Christensen argued that he and his partners had tried to appeal the judgment orally immediately after their claim was voided, but were never directed to the correct GLO authority. The problems with Christensen's complaints were, first, that he did not follow the GLO's clearly stated appeals procedure, and second, that he renewed his interest in the claim only after uranium price supports had been announced by the Atomic Energy Commission. In March 1950, officials in the Interior Department refused Christensen's request for a hearing.30

One month earlier, Emma Osborn of Torrey argued that she was legal claimant to the Oyler Mine because her late father had worked the mine back in 1905. Christensen and Osborn were just the first of more than two dozen hopefuls who attempted to file claim on the long-abandoned mine tunnels. From this point on, the conflicting claims to the Oyler Mine were played out in court, the federal bureaucracy, and the newspapers. The legal maneuvering effectively prevented the site from being mined by anyone. Ironically, mining

27 Brown, Capitol Reef History Survey, 19.
29 Raye C. Ringholz, Uranium Frenzy: Boom and Bust on the Colorado Plateau (New York: Norton and Company, 1989), 29. Unfortunately, there is really no good comprehensive history of the uranium boom in south-central Utah. Ringholz provides some good background information but concentrates mostly on colorful personalities such as Charlie Steen of Mi Vida fame, and Vern Pick of the Delta Mine near Hanksville. She makes no mention of the uranium mining at Capitol Reef -- which is not too surprising since so little was found. To the best of the author's knowledge, there is no detailed account of uranium mining anywhere in the Waterpocket Fold country, other than the Oyler Mine accounts by Brown and O'Bannon.
was not permitted at the Oyler Mine and the 80 acres surrounding it, said to have the highest concentration of uranium in the area, during the entire boom period. Nevertheless, the publicity generated by the mine's controversy and supposed riches brought the monument's uranium potential to the attention of both prospectors and, more importantly, the Atomic Energy Commission.  

**Mining Within The Monument: 1950-1954**

At first, the uranium boom at Capitol Reef consisted of the work of a few scattered prospectors. In the first "Superintendent's Monthly Narrative Report" since the monument's official activation in May 1950, Acting Superintendent Charles Kelly observed, "Uranium prospectors continue to pass through. Some are courteous enough to ask about regulations, but most are belligerent when told they cannot mine in the monument."  

Throughout the rest of the year, particularly over the summer, Kelly busily fended off probing prospectors. For the most part, the search for uranium in the Waterpocket Fold country was a seasonal occupation: with the coming of winter, most prospectors were eager to leave behind the rugged dirt roads and extreme isolation of the area.  

Activity at Capitol Reef heated up once again the following spring. On May 9, 1951, Willard Christensen and his partners, H. O. Barney and J. R. Hoffman, began camping near the Oyler Mine. They told Kelly that they would begin mining as soon as their equipment arrived. In what was undoubtedly a heated discussion, Kelly told the claimants there would be no mining within the monument. The three, however, continued to camp on the site, exploring the area with their Geiger counters. Their presence in the area activated the rumor mill, attracting dozens of local prospectors to try to stake their own finds. Claims were filed at the mouth of Capitol Gorge and in the vicinity of Twin Rocks and Chimney Rock. "No damage has been done in those areas as yet," Kelly reported, adding wryly, "It appears that all known and reported deposits of uranium ore occur in the most scenic and most accessible parts of the monument."  

Rumor that the monument was open to mining no doubt was based on the ongoing negotiations between the National Park Service and the Atomic Energy Commission to do just that. In the AEC's 1951 request to open the monument up to uranium mining, Commissioner Gordon Dean wrote Secretary of the Interior Oscar Chapman, "The grade of uranium-bearing material in the vicinity of the 'Oiler Tunnel' is such as to cause us to believe, in light of our experience with development of similar deposits elsewhere, that

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31 Ibid., 24-28.


33 Monthly Reports, July-September, 1950, Ibid.

34 Ibid., May 1951.
appropriate work in this area might disclose an important uranium deposit. In addition we believe thorough prospecting and exploration of the favorable formations in this area may disclose similar deposits.\footnote{Gordon Dean to Oscar L. Chapman, 19 February 1951, in Brown, \textit{Capitol Reef Historical Survey}, 23.}

In February 1952, a special-use permit governing uranium mining within the monument was agreed upon. The AEC promised to obtain National Park Service permission before any ore was taken, and to build only the roads, trails, and buildings absolutely necessary for uranium extraction. Further, the AEC would pay 10 percent of any mining profit to the National Park Service. When the seven years of the permit were over, the AEC would remove the buildings and cover the mine shafts.\footnote{Brown, 24.}

In May 1952, Capitol Reef National Monument was officially opened to uranium prospectors. Ranger Rudy Lueck was dispatched from Zion National Park to help Kelly with the expected rush. This rush, however, never materialized. Mostly due to confusion over the conflicting claims to the Oyler Mine area, the process of recording claims within the monument was delayed until July. Only about a dozen people bothered to file claims on lands outside the restricted Oyler section. This lack of interest, coupled with the discouraging findings by some Atomic Energy Commission investigators from the area office in Grand Junction, led Superintendent Kelly to hope that uranium mining would incur little damage to the monument, after all.\footnote{Ibid., 26-27; Monthly Report, June and September 1952, Box 4, Folder 3, Capitol Reef National Park Archives.}

By February 1953, the initial permit confusion had been resolved, and 35 mining permits for claims within the national monument were issued by the Atomic Energy Commission. On Feb. 21, one day after the opening date, only 11 claimants had registered with the monument. Kelly reported that those who did come found little:

> More than half the prospectors left within 24 hours. Five claims have been staked, but the locators are not very enthusiastic over their value. One group brought in a small plane and flew over the monument for two days with a Geiger counter but found nothing exciting. Other prospectors may show up late, when the weather becomes warmer, but present indications are that the 'rush' is over and that prospecting will present no future problem. The work done so far indicates that there are no great hidden deposits of uranium in this area.\footnote{Monthly Report, February 1953, Ibid.}

Kelly also noted that there had been no activity in the reserved area around the Oyler Mine and that all permit holders had been "courteous and cooperative."
Throughout the rest of 1953, prospectors continued to pass through the area. A few filed claims, including Lurton Knee on land near his Pleasant Creek Ranch, and a couple did a little digging. The Atomic Energy Commission sent C. E. Collins to investigate the area's potential and assign permits as needed. Although he found nothing worth mining, Collins nonetheless issued several permits. The resulting piecemeal digging was soon having a noticeably adverse effect on the landscape.\(^{39}\)

In June 1953, Kelly complained to the Atomic Energy Commission office in Grand Junction about its indiscriminate issue of permits. Ray Lindbloom was sent to investigate, touring the monument with Kelly to see all the various shafts and tunnels. Kelly reported, “He finally agreed that under conditions existing here, no mining contracts should ever have been issued, and promised that no more [would] be issued without proof of commercial values....The AEC has been asked to cooperate more closely with this office in the future.”\(^{40}\) By 1954, the uranium boom on the Colorado Plateau was at its peak. Historian Ringholtz describes the impacts:

> The AEC had turned the tap and engendered a flood. To spur exploration by individual prospectors and mining companies, the Commission averaged one-million feet of test drilling per year. They paid out over $3,725,000 in bonuses. They tamed the Plateau with 993 miles of access roads. The Grand Junction office received more than three thousand visitors and processed an excess of six thousand pieces of mail each month. AEC geologists assured the inquirers that thousands of square miles on the Colorado Plateau remained to be explored.\(^{41}\)

While most of this activity was east, north, and west of the Waterpocket Fold country, there would be a certain amount of spillover. Soon, a new front was opened in the Circle Cliffs area to the south of the monument. Charles Kelly provided an excellent, albeit somewhat embellished, account of the uranium boom in the Circle Cliffs during 1954. He wrote, “Nearly every man, woman and child in Wayne county has been out prospecting. The local banker locked up the bank, the barber shop and several stores closed up while the proprietors prospected. Since their congregations were out in the field on Sundays, some of the bishops closed up the ward houses to go prospecting.” Further, Kelly claimed, the Hunt Oil Company was then in the process of locating a thousand claims on the basis of “one claim where two men worked 20 days, took out a pickup load of ore, hauled it to Salt Lake City and sold it for $11.00.”\(^{42}\)

This mostly speculative filing of uranium claims on virtually every square inch of the eastern escarpment of the Circle Cliffs would have repercussions for Capitol Reef's

\(^{39}\) Ibid., March-April 1953.

\(^{40}\) Ibid., July 1953.

\(^{41}\) Ringholz, Uranium Frenzy, 153.

\(^{42}\) Monthly Report, February 1954.
management after the monument's expansion in 1969. Another significant result of the Circle Cliffs boom was the blasting of the Burr Trail road up the steep, boulder-strewn slope between Upper and Lower Muley Twist Canyons. Once a cow-track, this AEC road would become a primary route for ore trucks hauling samples to the uranium processing plants in Moab and Marysville, Utah. The road through Long Canyon was also improved so that, for the first time, there was a vehicle route connecting Boulder, the Circle Cliffs, and the Waterpocket Fold.  

Closer to the monument, uranium strikes were reported in the Caineville Wash area, the Temple Mountain area, and north of Hanksville at the rich Delta Mine, claimed by Vern Pick. Kelly also recorded that several core samples were taken from Sheets Gulch, south of the monument border. Construction on a small ore-processing plant was also begun at Notom, but it never became operational.

Within the monument itself, mining activity picked up again in 1954. In February, a road was graded on a state-owned section up into the Chinle on the south side of Grand Wash (opposite the Oyler Mine). By the end of the summer, however, it appeared that the boom was over for good. All new claims were reported to be abandoned, and the AEC refused to investigate any new finds because all previous showings had been so poor. Due to this lack of viable discoveries, Kelly appealed to his superiors and the AEC that the monument be closed to further mining. He wrote in October 1954, “The whole area has been carefully examined and most of it staked, but no commercial deposits have been found. It is therefore recommended that Capitol Reef National Monument be closed to further prospecting as of Feb. 20, 1955.”

In May 1955, unlimited prospecting permits within Capitol Reef National Monument were finally stopped. Existing valid permits were given one year renewals. All other prospecting within the monument was effectively over by May 1956.

**The End Of The Boom: 1955-1964**

In June 1955, just as it seemed the mining threat within the monument was over, the BLM had validated claims by Willard Christensen and his partners to two mines immediately south of the Oyler Mine. It appears that the claimants had filed on these locations when they filed on the Oyler Mine, but somehow the Yellow Joe and Yellow Canary claims had

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45 Monthly Reports, February-July 1954.
46 Ibid.
47 Monthly Report, October 1955; also see Brown, Capitol Reef Historical Survey, 29.
48 Brown, 29; Monthly Reports, May-June 1955.
been overlooked during the nullification process in 1941-42. Because of the oversight, the BLM had to validate them.

The National Park Service immediately attempted to purchase the claims through condemnation before the area was spoiled. Christensen and his partners, not to be foiled again, proceeded to build a road and blast large areas within the claims. Once the landscape had been scarred, the National Park Service abandoned its condemnation proceedings. 49

From 1955 through the early 1960s, the partners, under the name La Fortuna Mining Company, periodically worked their Yellow Canary mine as the National Park Service continued to appeal the claim's validity. The majority of this work was done in 1955-56, during which some 277 tons of uranium ore were “unprofitably sold to the Atomic Energy Commission.” 50 In 1964, the Secretary of the Interior finally declared the Yellow Joe and Yellow Canary claims permanently null and void. In 1967, the National Park Service finally took possession of the mine and began site restoration. 51

Meanwhile, legal battles surrounding the Oyler Mine continued. In 1958, in a last attempt to gain access to the mine's supposed riches, Cora Oyler Smith (daughter of the Oylers for whom the mine is named) filed a petition with the BLM to claim the mine on the basis of a technicality. The initials of her mother's name had been typed incorrectly on the original nullification notice from the General Land Office; therefore, Smith argued, she had never been legally notified and her claim remained valid. This claim was soon dismissed along with all other claims to the area, and the Oyler Mine reverted to National Park Service care. 52

In February 1959, when the Atomic Energy Commission’s special-use permits expired, the uranium boom at Capitol Reef National Monument finally ended. As stipulated by that permit, the AEC requested from the National Park Service a bill for the amount necessary to repair the residual mining scars left on the monument's landscape. The amount came to $13,500, but a ruling by the Comptroller General in June 1959 barred payments between federal agencies. The National Park Service, therefore, paid for the restoration, completing a minimum amount of work at abandoned sites in July. 53

In the end, although there had been a great deal of excitement, a few holes dug, and several roads made, little ore was actually taken from Capitol Reef National Monument.

51 Brown, 32-33.
52 Ibid., 33-34.
53 Brown, 35. See park photo collection, Capitol Reef Unprocessed Archives, for examples of restorations near Twin Rocks and Whiskey Flats. The uranium market was saturated at this time and the AEC was not nearly as supportive of new claims as it had once been - see Ringholz, Uranium Frenzy, 206.
In a 1969 interview, Charles Kelly recalled that the 10 percent royalty the National Park Service was to receive from all ore removed amounted to a total of $13.50. As for the real wealth of the Oyler Mine, later measurements of radioactivity indicated that it contained only a small amount of ore worth mining. It certainly would never have yielded as much as mines elsewhere on the Colorado Plateau.

Thus, the significance of the uranium boom at Capitol Reef was not the amount of ore extracted from the monument, but the fact that mining was allowed at all. In the 1950s, at the height of the Cold War, national security and mining boom hysteria combined to open up a national monument to mining where all claims had been previously nullified.

**Uranium and Capitol Reef During the 1960s**

Beginning in the mid-1960s, a second uranium boom hit the Colorado Plateau. The building of the first nuclear power plants once again brought adventurous prospectors into southern Utah looking for their fortune. By this time, of course, the more significant concentrations of uranium in the region had already been claimed and usually were owned by large corporations. Any new finds would most likely require a large investment of time and money before any profits would be made. This situation did not, however, prevent numerous, largely speculative claims from being filed by companies and individual miners. With Capitol Reef closed to mining, most of the prospectors in the Waterpocket Fold country concentrated on the areas south of the monument. Most of the exploration centered in the Circle Cliffs and along the eastern side of the Fold. This renewed mining activity would prove troubling after 1969 when Capitol Reef National Monument was expanded to include almost the entire Waterpocket Fold.

Within the old monument, the Yellow Canary claim was repossessed by the National Park Service in 1967. A Secretary of the Interior decision on May 4, 1964 declared the Yellow Canary claim invalid because "it is not shown as a present fact that the land is mineral in character and is valuable for its mineral content." Not until April 1967 did Acting Superintendent Grant Clark finally receive long-awaited word that all previous and/or pending mining claims within the national monument had been declared null and void. In

54 Kelly, interview with Lenard Brown, 26 May 1969, reel to reel tape and transcript, Capitol Reef National Park Archives.

55 John Burghart, Mining Examiner Technician, to Chief, Mineral Resources Section, 8 August 1989, File L3023, Capitol Reef Historic Superintendent’s Files.


57 All the mining claims for Garfield and Wayne Counties for this period are located in the mineral plat books found in the respective county clerk’s offices in Panguitch and Loa. For claims within Capitol Reef, see the L3023 files in the Capitol Reef Historic Superintendent’s Files.


59 Monthly Report, April 1967, Box 4, Folder 9, Capitol Reef National Park Archives.
September, the La Fortuna Mining Company was officially notified that the Yellow Canary claim had been nullified and that all buildings and equipment were to be removed within 90 days. On Nov. 20, the 90 days were up, and no one had come to claim either the small shack or related equipment. Rangers Bert Speed and Grant Clark took possession and inventoried the property.\textsuperscript{60} The building was later removed, the mine shafts covered over, and the area restored as nearly as possible to its natural condition.\textsuperscript{61} By the 1990s, the last scars of the uranium boom within the old monument boundaries were all but gone.

\textbf{1969 Monument Expansion}

On Jan. 20, 1969, Capitol Reef National Monument was expanded by presidential proclamation to more than 600 percent of its previous size.\textsuperscript{62} This expansion not only brought most of the spectacularly scenic Waterpocket Fold into the national park system, but also reeled in a reported 11,000 mining claims, 26,000 acres of oil and gas leases, and 1,760 pending applications for coal prospecting.\textsuperscript{63}

The presidential proclamation did not specifically address mining within the expanded monument, except to make the standard stipulation that the federal government recognized "valid, existing rights."\textsuperscript{64} This meant that while there would be no future mining claims allowed, all valid, existing mining claims and leases could legally be worked. All current and future leases on state lands were also beyond the jurisdiction of the National Park Service. National Park Service management of these valid, existing claims, and state-owned sections within Capitol Reef was limited to controlling access to the

\textsuperscript{60} Log of Significant Events (which had replaced the Monthly Narrative Reports), September and November 1967, Box 4, Folder 9, Capitol Reef National Park Archives. The value of the property was placed at $110. All specific memoranda of this case are listed in Robert Heyder, Superintendent to Regional Solicitor, 2 February 1968, File L3023-1967-76, Capitol Reef Historic Superintendent's Files. Attempts were later made in 1968 and 1977 to claim the area to mine, once again. These attempts were summarily rejected. See File L3023-1967-76.

\textsuperscript{61} Most of this work took place in October 1971 according to Log of Significant Events, October, 1971, File H1415, Accession 79-73A-136, Container 790697, Box 3, RG 79.

\textsuperscript{62} See Chapters 10-11, for details on this expansion.

\textsuperscript{63} R. D. Nielson, State Director Bureau of Land Management, to National Park Service Regional Director, 20 February 1969, Box 2, Folder 5, Capitol Reef National Park Archives. These figures, while later revised, were used over and over again during the congressional hearings over the monument expansion and park creation.


claims that were reached by crossing monument lands. The National Park Service could only hope that most of these claims had not been actively worked so that they would soon be declared abandoned, null, and void.\footnote{The frustration over the inability to control leases on state lands is evident in the correspondence. See, for example, Assistant Superintendent, Canyonlands National Park, to Superintendent, Canyonlands 29 October 1969, File L3023-1967-76, Capitol Reef Historic Superintendent’s Files. Also see Chapter 6 for more details on state-owned land concerns.}

At first, little could be done about all these claims. The small staff assigned to the old monument lands was inadequate to monitor more than 250,000 acres of rugged, unfamiliar country. Ability to protect the new lands was also hampered by the outspoken negative reaction from the local communities and the belief that the boundaries would soon be adjusted. The fact that new boundary signs were not posted until a year later compounded confusion and difficulties of controlling mining on the new monument lands.\footnote{The frustration over the inability to monitor the new monument lands is described in William F. Wallace, Superintendent, to Regional Director, 5 February 1970, File 6435A, Accession 79-76A-1229, Container 45183, Box 2, RG 79. Reference to the boundary signs is found in "Log of Significant Events," January 1970, File H1415, Accession 79-73A-136, Container 790697, Box 3, RG 79.}

Mining was not a primary issue during the 1970-71 debate over the boundaries and provisions of a Capitol Reef National Park. Since past mining had proven disappointing, and as future issues such as tar sands and coal were still in the speculative phase, the immediate concerns over grazing consumed the vast majority of National Park Service and congressional attention.\footnote{See Legislative Data records in Capitol Reef National Park Archives or in the footnotes and bibliography of Chapter 11.} Periodic attempts to gain access to previous claims within the new monument and (after December 1971) Capitol Reef National Park, however, had a significant effect on park management concerns.

The Tappan Claims

South of Oak Creek, in the central Waterpocket Fold, are two large box canyons called North and South Coleman Canyons. The entrances to these canyons are extremely narrow, but they soon open up to expose many of the colorful sedimentary layers of the Waterpocket Fold country. Among those exposed layers is a small outcropping of the Shinarump/Moenkopi contact.

Geologist Fred Smith led a survey party to the area in the early 1950s as part of an investigation for the Atomic Energy Commission. While they mention the Shinarump outcroppings within both canyons, the geologists implied that the radioactivity readings were insignificant, and that no uranium was found.\footnote{Fred J. Smith, Jr. et al., Geology of the Capitol Reef Region, 67-68.} These findings did little to discourage local uranium prospectors. Beginning sometime around 1954, Caineville native Evangeline Tappan and her husband, John, began filing over 90 claims in both

\footnotetext[1]{The frustration over the inability to control leases on state lands is evident in the correspondence. See, for example, Assistant Superintendent, Canyonlands National Park, to Superintendent, Canyonlands 29 October 1969, File L3023-1967-76, Capitol Reef Historic Superintendent’s Files. Also see Chapter 6 for more details on state-owned land concerns.}

\footnotetext[2]{The frustration over the inability to monitor the new monument lands is described in William F. Wallace, Superintendent, to Regional Director, 5 February 1970, File 6435A, Accession 79-76A-1229, Container 45183, Box 2, RG 79. Reference to the boundary signs is found in "Log of Significant Events," January 1970, File H1415, Accession 79-73A-136, Container 790697, Box 3, RG 79.}

\footnotetext[3]{See Legislative Data records in Capitol Reef National Park Archives or in the footnotes and bibliography of Chapter 11.}

\footnotetext[4]{Fred J. Smith, Jr. et al., Geology of the Capitol Reef Region, 67-68.}
North and South Coleman Canyons. A crude road was constructed to the entrance of the North Coleman Canyon and a 76-foot-long adit, or slanted mining shaft, was dug into its upper end. Several buildings used to house workers and equipment were also built inside the canyon. No records have been located documenting the amount of ore removed or whether any of it was ever sold.69

When the monument was expanded in 1969, these canyons were brought into the national park system. Then, after years of inactivity on the site, Mrs. Tappan wrote Capitol Reef in late 1971 asking if her claim was still valid. Acting Superintendent Bert Speed evidently could not answer her question. He told her, though, that if the claim were valid she could mine it and even build a road -- so long as the National Park Service was consulted prior to construction.70

Mrs. Tappan took this letter as permission not only to mine, but to build the road. In July 1972, when Speed went to investigate reports of a road being built into North Coleman Canyon, he encountered blasting in progress. He advised the workers that dynamiting required a permit, though he saw no reason to prohibit the use of a front-end loader to clear out the debris. Speed's rather tolerant response to this matter suggests that he assumed at least some of Tappan's claims to be valid.71

When news of the road-building reached the regional office, NPS staff there demanded an immediate investigation into the validity of the Tappan claims.72 This is all rather confusing, since a validity examination had already been completed by National Park Service Mining Engineer Robert O'Brien back in March 1972. O'Brien had concluded that there was no valid discovery of minerals on any of the unpatented claims in North Coleman Canyon.73 This report could have been used to halt road construction before blasting began, but for some reason it was not. At the end of July, however, the National Park Service obtained a restraining order to stop the blasting and road building. After several years of hearings, the Interior Board of Land Appeals ruled on May 5, 1975 that no valuable mineral deposit had been found as of January 20, 1969 (the date the land was withdrawn into the National Park Service), thus making the claims null and void.74

This ruling only seemed to increase the determination of Mrs. Tappan. Being a prominent citizen of Wayne County as well as a local contributor to the Salt Lake City newspaper, The Deseret News, she knew how to appeal her case. She wrote to Utah Senators Jake

69 All information taken from various memoranda and letters found in File L3023-Tappan Claims, Capitol Reef Historic Superintendent's Files. The foundations of several buildings are still visible in North Coleman Canyon.

70 Speed to Tappan, 2 December 1971, Ibid.

71 Speed to Superintendent, 26 July 1972, Ibid.

72 Assistant Director, Park Operations to Director, Midwest Region, 27 July 1972, Ibid.

73 "Examination of Validity," 28 April 1972, Ibid.

74 Interior Board of Land Appeals Decision 75-288, 5 May 1975, 25 IBLA 2.
Garn and Frank Moss. She also tried to persuade the National Park Service that all the
time and effort she and her family had put into the Tappan claims over the years should be
reimbursable. All these efforts produced a great amount of correspondence, but did not
change the final decision nullifying the claims. To the end, Evangeline Tappan remained
bitter toward the National Park Service for taking her claims. In a 1981 interview with
former Chief of Interpretation George Davidson, she continued to argue that there was a
good deal of money in the Coleman Canyons that was just being washed away.75

**Rainy Day Mines**

Located about four miles south of the Burr Trail, the Rainy Day mines have produced
more uranium than all other areas within the present park boundaries combined. Geologist
E. S. Davidson reported, “The Black Widow, Hotshot, Yellow Jacket, and Stud Horse
prospects and the Rainy Day mine are the only workings in the Circle Cliffs district from
which more than a few truckloads of ore had been shipped as of 1956; the Rainy Day mine
had produced more than 75 percent of the total.”76

The Rainy Day Mines are a series of approximately 25 claims first filed in 1954 by Leo D.
Jackson, Blaine Albrecht, and Rutherford Tanner. The last time that the mines were used
extensively was probably sometime in the mid- to late 1960s, since that is the latest date
found on magazines located in associated buildings.77 By the time the area was
incorporated into Capitol Reef National Park in 1971, there were 12 adits up to 1,800 feet
long, two wooden buildings, a large trash dump, a holding pond, and numerous
improvements, all served by four miles of dirt road from the top of the Burr Trail
switchbacks. Reportedly, over 8,000 tons of ore had been removed from the area.78
Significantly larger than any mining operation on the old monument lands, this mine would
require a good deal of attention in the years ahead.

In the fall of 1972, Leo Jackson leased assessment work to Virgil Adams in return for
profits once the mine became active again. Adams used a grader to improve the access
road but decided to delay actual drilling since there was no market at the time.
Apparently, the assessment work was only being done to keep title to the claims until
increasing uranium prices made the Rainy Day profitable. Even so, Leo Jackson seemed
resigned to the mine’s apparent lack of potential. National Park Service Mining Engineer
Harold Ellingson recalled that Jackson’s parting comment to him after a September 1972
interview was that "all he wanted was some money for his claims in order to keep his wife

75 See File L3023 - Tappan Claims, Capitol Reef Historic Superintendent’s Files and Evangeline
Tappan Godby, interview with George Davidson, 1 September 1981, Capitol Reef National Park Archives.

76 E. S. Davidson, *Geology of the Circle Cliffs*, 72. Davidson also goes into detail as the type of
mine shafts and quality of ore found in the Rainy Day and other prospects in the immediate area.

77 Author’s investigation while assisting the John Milner Associates, Inc. Historic Resource Study,

78 "Proposed Wilderness," Draft Environmental Assessment, June 1974, 73.
By this time, however, the slow pace of nuclear fueled power plants and the ready supply of uranium from elsewhere had made it economically unfeasible to mine the meager sources in the Waterpocket Fold country. Jackson and the others would never get the chance either to extract ore from the mines or sell them. The next uranium boom never came.

By 1976, the National Park Service had asked Bureau of Land Management officials to declare the Rainy Day claims null and void. Then, at the end of 1978, someone performed unspecified assessment work on the mines without a plan of operations, which was by then required. Superintendent Derek Hambly notified Jackson and the other owners to stop all work until such a plan had been approved. On March 24, 1981, the Interior Board of Land Appeals ruled that 31 claims associated with the Rainy Day Mines were invalid due to lack of discovery of any significant ores. This decision, however, did validate two claims: Rainy Day Group 1, claims 2 and 3. These two claims were the only mines to be validated out of the over 11,000 claims within Capitol Reef National Park when it was created.

In September 1981 Leo Jackson notified Hambly, as required by the Federal Land Policy and Management Act of 1976, that he intended to hold onto these claims but had no plans to begin mining. By 1984, however, Jackson and the other owners of the Rainy Day evidently had given up hope of ever mining the area again, as they did not file required notices of intention in either 1984 or 1985. In obvious relief, the National Park Service moved quickly to terminate these last remaining claims within the park. There is no record of attempts to halt these proceedings. By the end of 1986, the Rainy Day claims were declared null and void.

The Rainy Day Mines were the most productive mines now within Capitol Reef National Monument. They also left the biggest scars. In 1993, the buildings were torn down, debris was placed in the mine tunnels, and the adits were blocked as part of a Utah Division of Oil, Gas, and Mining program to reclaim old mines. An initial $31,600 was allocated for this purpose, with additional money requested to naturalize and revegetate the access road as well.

Ellingson to Superintendent Wallace, 26 September 1972, L2423 - U.S. v. Jackson, Capitol Reef Historic Superintendent's Files.

Lynn Thompson, Regional Director, to Representative Dan Marriott, 13 January 1978, Ibid.

Derek Hambly, Superintendent, to Leo Jackson and others, 4 January 1979, Ibid.

Administrative Decision, IBLA 79-51, ?.

Decision, Bureau of Land Management, 18 July 1986, copy found in File L2423.

David B. Shaver, Chief Mining and Minerals Branch, Land Resources Division, to Regional Director, Rocky Mountain Region, 25 October 1993, File L3023 (661), Capitol Reef Superintendent’s Files.
The Tappan and Rainy Day claims are two of 17 significant mine sites that were incorporated into Capitol Reef National Park. Several of these other sites are documented in the Historic and Active Superintendent's Files at Capitol Reef headquarters in Fruita. Examination of these files and the history of the uranium boom verifies that no one made it rich from this modern search for El Dorado, at least in the Waterpocket Fold country. Nevertheless, despite overwhelming scientific evidence and previous limited success, the search continues to the present day. It is difficult for some to realize that Capitol Reef's riches lie not in mere minerals, but in the sweeping grandeur of its geology, the color and texture of its strata. It is this wealth of scenery that now brings millions of visitors -- and their pocketbooks -- to the region.

The Bird Flagstone Mine

Actually, it was the color and texture of the rock just west of the visitor center that brought about one of the most controversial but short-lived mining conflicts within Capitol Reef. In 1964, Clair Bird obtained a commercial operations lease on State Section 16, Township 29 South Range 6 East, and a mineral lease on the northeast corner of the same section.\(^{85}\)

The focus of Bird's mineral lease was not uranium, but rather, the deep red ripple rock occurring in large, horizontal layers in the Moenkopi Formation. Remnants of ancient stream beds and mud flats, this ripple rock resembles textured flagstone used in construction. The ripple rock within Capitol Reef had been quarried on a limited scale by Fruita and other local community residents since the area's settlement back in the 1880s. In the 1930s, rockhound Arthur "Doc" Inglesby, the first non-Mormon settler, built his house and fence using some of this flagstone and ripple rock. (His fence rock was apparently later re-used for many of the directional signs within the headquarters area of the park.) Ripple rock was also the main construction material for the CCC road, trail, and building projects in the monument, including the old ranger station and the visitor center, begun in 1964. So, Clair Bird was not the first to mine construction rock within the monument, just the first to do so commercially.\(^{86}\)

Clair Bird had been continually at odds with Capitol Reef management since the early 1960s. Descended from Fruita pioneer Jorgen Jorgensen, Bird had inherited the Capitol Reef Lodge operation from his father, Archie, and ran it with his mother, Emma. One

\(^{85}\) The problems between Clair Bird and Capitol Reef managers could almost occupy a separate chapter in this administrative history. Information specific to the mining conflict will be examined here. The problems pertaining to the state section will be addressed in Chapter 6 - State Lands, and discussion of the Capitol Reef Lodge conflicts can be found in Chapter 3 - Historic Fruita Management.

sore point with park staff was that Clair Bird rarely followed concession policy. He would
serve meals and drinks only to guests staying in his lodge, and closed his lodge at some of
the busier times of the year. 87

At first, it appeared that Bird would not be using his state mineral lease. Instead, he used
his state section lease to build a Conoco service station and curio shop next to the
highway, less than 1/4 mile directly uphill from the visitor center. 88 While this gas station,
in plain sight of headquarters, was obviously troubling to park managers, it wasn’t a major
problem. The situation changed dramatically in October 1970, when bulldozers began
cutting an access road from the highway to a mining site west of Bird's service station.
According to the terms of Bird's 1964 state mineral lease, mining was to commence within
the first year of the lease and be "pursued diligently" after that time, if the lease was to
remain valid. Although Bird did not initiate work until six years later, he continued to pay
$80 annually to the state, which therefore never began termination proceedings on the
claim. 89

Bird declared that he was planning to use his bulldozers to excavate the rock on both sides
of the highway below the scenic Castle formation, and market the material to building
companies throughout the West. 90 Once the bulldozers arrived, the National Park Service
sought to purchase or exchange other federal land for the mining locale. A state/federal
land swap fell through after Bird indicated that he would settle for no less than a prime
location on the newly completed Interstate 70 north of the park, or compensation in
excess of $100,000. Bird evidently was pressing his advantage to leverage himself a
profitable deal. 91

In early April 1971, National Park Service attempts to acquire Section 16 intensified when
Bird began excavating about 20 tons of ripple rock. 92 With the support of the Green
Hornet Mining Company of Bloomfield, Col. and supposed markets in Utah, California,

87 Some of the Bird conflicts are also reviewed in Chapters 5-7. Some background information was
provided Robert Heyder, former Capitol Reef Superintendent, in an interview with Bradford Frye, 1
November 1993, tape in Administrative History files and notes. According to several local residents who
have worked at Capitol Reef, Bird intensely disliked Superintendent William (Franklin) Wallace.
According to these sources, Bird went into the mining business primarily to upset Wallace.

88 Possible reasons why the State of Utah agreed to the lease in the first place are mentioned in the
"State Lands" discussion in Chapter 6.

89 Nathaniel Reed, Assistant Secretary of the Interior, to Patrick Noonan, President, The Nature
Conservancy, 17 October 1974, L1429-Bird 75-80, Capitol Reef Historic Superintendent’s Files; Salt Lake
Tribune 10 July 1971.

90 The (Salt Lake City) Deseret News, 27 April 1971. See Capitol Reef photo collection, Capitol
Reef Unprocessed Archives, for photographs documenting the access road and mining operations.

91 Message Memo, John Lahr, NPS Reality Specialist to Lowell Johnson, 12 December 1970, L1425
-Utah 51-74, File L1429-Bird 75-80.

92 Reed to Noonan, 17 October 1974.
and Oklahoma, Bird's flagstone mining operation had a lot of earnings potential. At the request of the National Park Service, Utah Governor Calvin Rampton declared a 30-day moratorium on the mining operation. During this period, the state was able to transfer the property to National Park Service management — with the stipulation that Bird's valid lease be carried over. "Within hours thereafter," Assistant Secretary of the Interior Nathanial Reed reported, "the National Park Service acting on behalf of the Department of the Interior canceled the lease. The basis of the lease termination was that Bird was doing irreparable damage to an aesthetic, readily visible portion of the monument and his lease was terminated automatically when he failed to begin mining in 1965." Clair Bird would not concede defeat. The battle raged, with the National Park Service determined to halt the mining and Bird refusing to compromise. A blow-by-blow account was reported in the local and regional newspapers. Since this mining conflict was taking place at the very time the final legislation for Capitol Reef National Park was being debated in Congress, several of the newspaper articles emphasized the local support for Bird. This support, though, was not particularly strong. On one hand, some local citizens were glad to see a local entrepreneur giving the National Park Service fits. On the other hand, others voiced concern about the damage his actions inflicted on the scenery, and the impact of negative publicity on tourism. Despite Bird's previous actions, the National Park Service apparently believed that he would agree to the lease termination, and was thus unprepared for his next move. Declaring that the National Park Service termination notice was invalid because it failed to allow the 30-day notice stipulated in his lease, Bird announced that he would immediately resume mining. On Sunday, July 11, nine days after the National Park Service acquired the land and served the termination notice, Bird resumed mining flagstone. Caught off guard, the National Park Service was not able to stop the mining for two days, until federal marshals served Bird with a temporary restraining order. From that point, the mining was halted while the conflict shifted to federal court. Bird won the first round in 1973, when U.S. District Court Judge Willis W. Ritter ruled that the U.S. government owed Bird and Green Hornet Mining $250,000 for wrongfully terminating their mining lease. This judgment was reversed in 1974 by the U.S. Tenth Circuit Court of Appeals. While the appellate court ruled that the district court had no

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93 Salt Lake Tribune, 26 May 1971.
94 Reed to Noonan.
96 Salt Lake Tribune, 16 July 1971.
97 United States v. Clair Bird, et al., USDC - Utah C-153-71, summary found in Regional Director to NPS Director, 20 February 1975, L1429 - Bird 75-80, Capitol Reef Historic Superintendent's Files. This is the same Judge Ritter who later summarily ruled against Capitol Reef for fining rancher Jack King for blasting a stock trail on Oak Creek in 1977.
jurisdiction to award federal money to Bird, it could not judge the validity of the mining lease because that issue was not part of the appeal. This left the issue unresolved.  

Throughout the rest of 1974, both sides attempted to gain the upper hand. The National Park Service put a halt to any immediate attempt to mine the flagstone by requiring Bird to submit a detailed operations plan for the superintendent's approval and to put up a substantial reclamation bond. Clair Bird responded by offering to sell out for $300,000. This could have been the end of the entire episode, except that Capitol Reef had already overspent its land acquisition money authorized by Congress. The National Park Service then asked The Nature Conservancy to help purchase the land. The Nature Conservancy initially approved of the plan but requested that the National Park Foundation also endorse the project. When the foundation refused, the plan fell apart. Once again, the issue was at a stalemate.

Then, in July 1975, Bird quarried two shipments of ripple rock without first submitting the required plan of operations. This brought an immediate reminder from Regional Director Lynn Thompson that Bird must submit not only a mining plan, but also a substantially larger bond than the $5,000 offered to Superintendent Wallace. This proved to be the last attempt by Bird to mine ripple rock. A combination of the rigid National Park Service regulations and the lack of customers for his flagstone put Bird out of the building stone business. Nevertheless, he still held the lease and still posed a potential threat.

In a syndicated article that appeared throughout the country, Bird stated that he was no longer willing to sell. Rather, he declared defiantly, "I may just stay here and mine for 100 years. I'm a bachelor and have no one depending on me, so I don't need their money. And I'd just as soon fight them."

Bird used the article as leverage to re-enter negotiations. In December, 1975 and again in August 1976, Clair Bird notified National Park Service officials of his intent to sell or exchange all his lands within the monument, but the status of the mining lease remained uncertain. There is no record of the National Park Service response.

With his efforts to quarry ripple rock stymied, Bird decided to add a few outbuildings to his lodge operation during the summer of 1977. At this point, the National Park Service

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98 Ibid.

99 Ibid.

100 Thompson to Bird, 17 July 1975, File L1425-Utah 51-74.

101 See David Jones, Chief, Mining and Mineral Division, to Regional Director, 9 May 1978, Ibid., for a detailed discussion of Bird's problems trying to find a buyer.


103 Bird to Sherman Swensen, Chief, Division of Land Acquisition, 10 December 1975; and Bird to Wallace, 26 August 1976, File L1425 - Utah 51-74. Also see Solicitor to Assistant Solicitor, 27 January 1977, Ibid., for a summary of events during this period.
had enough. In November, Director William Whalen wrote Sen. Henry Jackson of Washington State, requesting his Senate Interior and Insular Affairs Committee to approve a declaration of taking so that all of Bird's interests at Capitol Reef could be acquired. Director Whalen argued, "Since there is no possibility of a negotiated settlement with Mr. Bird, it is imperative that his holdings be acquired by filing a declaration of taking to preclude further mining operations and to prevent additional development on the land." 104

As part of the proceedings to buy out Clair Bird, his mining lease was analyzed in May 1978. The examination showed clearly that if Bird had ever had a market for his ripple rock, it had long since vanished. This lack of a market, the failure to follow the requirements of his lease, and the fact that an insignificant amount had either been taken from the site or royalties paid to the federal government, proved to the appraiser that the mining lease on section 16 "had a NIL VALUE as of January 13, 1978." This date was the official date of closing for all of Bird's properties within the park and he was notified to vacate his Capitol Reef properties by June 15, 1978. 105

The park service tore down Capitol Reef Lodge and the Conoco gas station about a year later, and naturalized the Bird ripple rock quarry as best it could. In 1994, visual evidence of Bird's business ventures at Capitol Reef is hardly visible.

The quarrying of ripple rock at Capitol Reef was not very profitable. For one thing, Capitol Reef's isolation meant high shipping costs to get the raw materials to the buyers, who evidently lost interest and withdrew from the deal. After that, Clair Bird seemed determined to continue his quarry operations more to defy the National Park Service than to make an actual profit. Possibly, Bird's goal from the beginning was to win compensation from the National Park Service in exchange for his mining lease. In any case, Bird cost the National Park Service a great deal of time and money in trying to stop him, virtually daring the agency to condemn his holdings within the park. This exasperating case is a strong argument for the National Park Service to acquire all state sections within the park as soon as possible.

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104 Whalen to Senator Jackson, 16 November 1977, L1429 - Bird 75-80, Capitol Reef Historic Superintendent’s Files.

105 Jones to Regional Director, 9 May 1978. The royalty payments after NPS acquisition were listed as $12.50 in July 1975 and $31.50 in August 1975. This meant that a total of 56 tons of rock were mined in six and a half years. The amount of rock quarried in 1971 is not known, but it could not have been much more than the 20 tons reported earlier.

For more information on the final disposition of Bird's properties, see documents related to U.S. v. Clair Bird, et al., USDC C-78-16, partial copies in L1429 - Bird 75-80, Ibid. According to the Master Deed Listing for Capitol Reef, 31 March 1993, the final cost of purchasing all of Clair Birds assets at Capitol Reef totaled $429,700.
Mining Regulations And The End Of Claims Within Capitol Reef

As shown by the cases presented above, the National Park Service historically has not had as much control over mining within its units as one might assume. In fact, prior to the 1976 Mining in the Parks Act, the Bureau of Land Management actually controlled all mining claims on the public lands subject to the antiquated Mining Act of 1872. 106

Virtually every national park and monument, including Capitol Reef, has been created subject to continuance of valid, existing rights. This stipulation meant that those holding valid, existing mining claims and oil and gas leases could continue working, and that the park or monument had virtually no say in the matter. This fact, together with the lenient regulations of the 1872 Mining Act, allowed uranium mining to proceed within Capitol Reef National Monument during the 1950s. It also enabled owners of the Tappan, Rainy Day, and other unpatented claims to continue blasting, mining, and making road improvements even after Congress created a national park in the area.

The Hard Rock Mining Act of 1872 was passed to legitimize previous claims and stimulate new mining operations on public lands. Under this act, a person could stake a claim, both on the ground and by filling out a one page application in the county recorder’s office. An individual claim encompassed 20 acres, but the number of claims a person could acquire was unlimited. A group of up to eight individuals could create an association and claim up to 160 acres. These claims are called “unpatented” because the surface of the land was still owned by the federal government, but the claimant could pretty much do what he wanted on the property: build a home, divert water, cut timber, or graze livestock, for instance. The courts and federal agencies have been continually lenient in this regard. 107 Fortunately for Capitol Reef, the mining claims were on fairly inhospitable lands, which made continued occupation of the site undesirable.

The key to maintaining any mining claim under the 1872 act was to make a "discovery" of a valuable mineral deposit, and prove $100 worth of assessment work every year. Of course, the term “valuable” is open to broad interpretation, with the result that nullification proceedings can be dragged through years of appeals. The annual $100 assessment in 1872 constituted a substantial investment, but is virtually nothing now. Renting a caterpillar tractor and blading the road into the mine once a year could easily cost the required $100. Thus, so long as the claimant could prove a “discovery of valuable minerals” prior to acquisition of the land by the National Park Service, and so


107 Wilkinson, 44-45.
long as he kept up with the required assessment work, there was little the agency could do to nullify the existing claim. 108

The situation changed in 1976 with passage of the Mining in the Parks Act. 109 As part of the 1970s federal land reform movement (which also saw passage of the National Environmental Policy Act and the Federal Land Policy and Management Act), the Mining in the Parks Act sought to give National Park Service officials tighter control over mining within parks and monuments. 110 The act requires claim holders to register all active claims, provide a detailed plan of operation for park manager approval, and purchase a substantial performance bond that must cover all reclamation costs. The law also prohibits new claims in any national park or monument. National recreation areas, however, are specifically exempted from these provisions. 111 Plans of operation and performance bond requirements have been used to prevent work on the Rainy Day mines, and similar requirements were used previous to the 1976 act to challenge Clair Bird’s ripple rock operation.

While it could be argued that the 1976 Mining in the Parks Act was not strict enough, especially toward privately owned or patented claims, this act has proven to be a useful tool for National Park Service managers trying to prohibit mining within their parks. 112 One of the most useful aspects was the law’s stipulation that all claims must be recorded with the Bureau of Land Management by Sept. 28, 1977, or be declared null and void. This provision enabled many parks to summarily dismiss thousands of outdated claims throughout the West. In Capitol Reef National Park, a total of 189 unpatented claims were recorded by the September 1977 deadline. The National Park Service challenged each of these claims, usually on the inability to prove a valid discovery prior to the 1969 withdrawal of the land. By 1982, all but the Rainy Day Mines #2 and #3 and been declared invalid. 113 When the Rainy Day claims were finally nullified in 1986, the threat of resource damage from hard rock mining within Capitol Reef was over. 114

There were, however, three oil and gas leases remaining on state-owned sections within park boundaries in 1986, down from 13 in 1970. 115 Since the State of Utah had assured

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108 Ibid., 46-50; Barnett, 416.
110 Barnett, 417-418.
112 See Barnett, 418-422, for a good evaluation of this act.
114 Mining Threats Questionnaire, 20 June 1986, L3023 - Gen. Correspondence 80-82, Capitol Reef Historic Superintendent’s Files.
Capitol Reef managers that these leases would not be renewed, and because the possibility of their becoming active was extremely remote, oil and gas leases within the park were effectively curtailed as well. Thus, by the end of the 1980s, mining and mineral exploration within Capitol Reef National Park had been either suspended or eliminated.

Outside encroachments on Capitol Reef National Park, however, are another matter. Since the park was created in 1971, several large energy-extraction ventures in and near the park have been proposed. The first of these were proposals to build power plans southwest and northeast of the park; later came proposed coal, tar sands strip-mine operations, and imaginative plans for tapping oil and gas in the southern end of the park.

Oil And Gas Exploration

There has been periodic drilling of oil and gas in various areas surrounding Capitol Reef National Park since the 1920s. By the time the national park was created in 1971, there were approximately 6,000 acres of leases within the park, mostly on state-owned sections. There were also hundreds of other leases immediately adjoining two-thirds of the park boundary.

By 1974, all but five oil and gas leases within Capitol Reef had either expired or were withdrawn. While the specific reasons for the lease withdrawals are not known, it seems likely that the hindering presence of national park regulations, coupled with high recovery costs, outweighed the possibility that valuable deposits could be found beneath park lands.

The remaining five leases, scheduled for termination by mid-1980, were all located in the southern end of the park. One was just north of the Burr Trail, three were in the vicinity of the Rainy Day Mines, and all of section 18, Township 36 south, Range 9 east was claimed by Viking Exploration, a subsidiary of Sun Oil. This latter lease, along with

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116 1986 Mining Threats Questionnaire; Norm Henderson, Resource Management Specialist, to Terri Martin, National Parks and Conservation Association, 14 May 1984, L3023 - Gen. Correspondence 80-82, Capitol Reef Historic Superintendent’s Files. See Chapter 6 for more information on oil and gas leases on state owned land within the park.

117 R. D. Nielson, State Director Bureau of Land Management, to National Park Service Regional Director, 20 February 1969, Box 2, Folder 5, Capitol Reef National Park Archives, contains the figures most often used during the park legislation debates.

118 "Proposed Wilderness, Capitol Reef National Park, Utah," June 1974, Draft Environmental Statement prepared by National Park Service, Denver Service Center, 43-73, is a useful summary of past and potential economic geology in the Waterpocket Fold country. While this draft was never formally accepted, the information is still extremely useful and very readable. Also see State of Utah, Department of Natural Resources Memorandum regarding oil and gas possibilities in park wilderness proposals (n.d.), Box 2, Folder 7, Capitol Reef National Park Archives, and testimony and statements related to 1969 monument expansion, Box 2, Folder 6, Capitol Reef National Park Archives.
similarly owned leases in adjoining sections in Glen Canyon National Recreation Area, proved the most troubling of all the oil and gas leases in the immediate area.119

Trans Delta/Viking Exploration Lease: 1972-1982

In August 1972, Trans Delta Oil and Gas Company, the designated operator for Viking lease U-9406, notified the regional Bureau of Land Management office in Kanab of its plans to begin initial exploration on leases soon to be incorporated into the new Glen Canyon National Recreation Area. These were less than a half-mile south of Capitol Reef National Park. To gain access, Trans Delta would improve the existing road and build additional road into this rugged, scenic area along the eastern escarpment of the Circle Cliffs.120

Trans Delta faced dealing with numerous federal agencies with conflicting missions, mandates, and agendas. The United States Geological Survey, which was responsible for the lease, actively encouraged exploration of the potentially major oil field under the Circle Cliff/Waterpoeket Fold contact. The fledgling Glen Canyon National Recreation Area was struggling to comply with congressional requests for wilderness studies, while also permitting mineral exploration. The Bureau of Land Management was placed in the unenviable position of coordinating all the paperwork and correspondence, as well as controlling most of the access route to the drill site. Capitol Reef National Park was involved only because Trans Delta had determined that it would be less expensive and less destructive to detour its access road around the head of a canyon, which meant building a small section within the park.121

Throughout 1973, the USGS, the BLM, and the National Park Service attempted to coordinate the necessary environmental assessment. The National Park Service objected that the environmental assessment was not thorough or detailed enough, and argued that an environmental impact statement was needed. The U.S. Geological Survey disagreed, unilaterally approving the Trans Delta drilling application.122

At this point, the National Park Service had a choice. It could refuse to issue any special-use permits for the road building and drilling, thereby alienating the USGS just as its support was needed in the upcoming wilderness designations for Glen Canyon National Recreation Area. Or, the National Park Service could reluctantly issue the permits, hoping that environmental organizations would seek an injunction against the operation on


120 All information on the Trans Delta portion of this case was found in File L3023-Trans Delta '73, Capitol Reef Historic Superintendent’s Files.

121 Chronology, Application of Drilling, (n.d), and James Isenogle, Acting Assistant to the Regional Director, Utah, to Regional Director, Midwest Region, 22 January 1974, L3023-Delta '73, Capitol Reef Historic Superintendent’s Files.

122 Ibid.
the grounds that an environmental impact statement was needed. This second alternative would also show the local communities that some mineral exploration would be approved within the new recreation area. This was the alternative chosen by Regional Director J. Leonard Voltz. For the sake of federal agency unity and positive local publicity, and gambling that the environmentalists' lawsuit would hold up the project, both Capitol Reef National Park and Glen Canyon National Recreation Area were instructed by Voltz to issue the appropriate special-use permits.\textsuperscript{123} National Park Service Acting Utah Director James L. Isenogle stated:

\begin{quote}
We have absolutely no fear of losing the respect or cooperation of the conservationists in the State of Utah as a result of the Trans-Delta case. They perceive our purpose in the sequence of events leading to the litigation and fully understand that the Service can, and probably will win more wilderness in Glen Canyon by losing this case in court than we could hope to by arguing our differences with USGS at the Departmental level and our position with residents of southern Utah and the State Government.\textsuperscript{124}
\end{quote}

The Sierra Club did indeed seek an injunction against Trans Delta and the various federal agencies in early December 1973. As a result, all oil and gas leases in Glen Canyon were suspended until a comprehensive mineral management plan could be completed. The strategy chosen by the National Park Service had worked.\textsuperscript{125}

Then, in 1982 Viking Exploration resumed its request to drill in the same area.\textsuperscript{126} This time, an elaborate plan to pipe the oil across Capitol Reef National Park ensured that park managers would be closely involved.

Viking planned to use the access route initially identified by Trans Delta back in 1973. If a valuable discovery were made, Viking would drill on other leases in the immediate area, including those within Capitol Reef. To get the oil from the isolated drill site, Viking proposed constructing a pipeline down the east face of the Waterpocket Fold, across Halls Creek near the Fountain Tank tinajas, and up to an oil storage and loading facility near the

\textsuperscript{123} Isenogle to Regional Director, 22 January 1974, and Regional Director Voltz to Superintendent, Glen Canyon, 12 November 1973. Ibid. Special-use permit #67404004 issued for road construction to Trans Delta Oil and Gas Company is found in the same file.

\textsuperscript{124} Isenogle to Regional Director, 22 January 1974.

\textsuperscript{125} June Viavant, Ruth Frear, and the Sierra Club v. Trans-Delta Oil and Gas Company \textit{et al.}, Civil No. C-367-73, USDC - Utah. Portions of the docket are found in L3023-Trans-Delta Oil and Gas, Historic Superintendent’s Files.

\textsuperscript{126} Because of the suspension of permits during Glen Canyon's mineral evaluation process, the termination date of the leases was delayed, as well.
abandoned air strip on Thompson Mesa (Fig. 42). Most of this route would be through a state-owned section of land within the national park.\textsuperscript{127}

Over two days of meetings (Sept. 28-29, 1982) at Page, Ariz., Viking representatives laid out their proposals to the management staffs of Capitol Reef and Glen Canyon. Superintendent Hambly reported that, while the meetings were cordial, the proposal to construct a pipeline across the lower Waterpocket Fold was a cause of great concern. Viking had already contacted the Utah State Trust Lands Office, which had advised the company to construct the pipeline right away. This action would allow Viking to avoid any entanglements resulting from the likely transfer of state land to Utah's national parks, under consideration as part of the "Project Bold" proposal. This attitude on the part of the State of Utah, according to Hambly, gave Viking the impression that state school sections were "fair game for some sort of activity."\textsuperscript{128}

Hambly also thought the Viking representatives were unfamiliar with the topography of the landscape on which they were planning to build. He wrote:

> It was pointed out that aside from the undesirability of having pipelines through Halls Creek, Viking would have to contend with a 2,000 foot vertical drop at 50-60 degrees on the east side of the canyon with an additional 800-1000 foot vertical cliff on the east side of Halls Creek - all of this over rock where a pipeline could not be buried or the area reseeded to reclaim the land. Flight over the area on September 29, seemed to convince Viking of the unfeasibility of pipeline construction through Section 16 [the state section in question].\textsuperscript{129}

But Viking did not give up on the pipeline altogether. As an alternative to the climb up Thompson Mesa, the company tentatively proposed building the oil collection facility at the bottom of Halls Creek. Hambly objected to the proposed drilling within park boundaries. Viking responded that directional drilling from outside the park could be done, but it would be prohibitively expensive.\textsuperscript{130}

In the end, Viking's elaborate plans never came to fruition. When the company was denied permits in 1981, it renewed efforts the following year. However, Viking was never able to prove it had a valid lease within the park, nor did it ever submit the required plan of

\textsuperscript{127} R. George Silvola, Viking Exploration, Inc. to Superintendent Derek Hambly, 23 September 1982, L2427 70-82, Capitol Reef Historic Superintendent’s Files.

\textsuperscript{128} Hambly to Regional Director, 30 September 1982, Ibid. See Chapter 17 for more information on Project Bold.

\textsuperscript{129} Ibid.

\textsuperscript{130} Ibid.
operations. Consequently, all of Viking's permit applications were summarily denied. The protections provided by the Mining in the Parks Act put a halt to Viking's plans early in the process.

As of 1994, all oil and gas leases are terminated within Capitol Reef National Park. Under current law and in the current political climate, it is safe to say that oil and gas drilling will not be a threat in the immediate future. Nevertheless, the potential for drilling has been identified and is well known. Future drilling ventures can be anticipated once there is a pivotal change in price of oil.

Coal-burning Power Plants

In the early 1970s, a proposal to build a large coal-burning power plant on top of the Kaiparowits Plateau, 30 miles southwest of Capitol Reef, received national attention. Even while this classic battle between developers and environmentalists was shaping up, another enormous power plant was proposed for construction only 10 miles east of Capitol Reef. Located on Salt Wash at the base of Factory Butte, this $3.5 billion plant was projected to bring over 11,000 workers to the area, use 10 million tons of coal a year from neighboring Emery County, and consume 50,000 acre feet of water per year. This water would be provided by a dam and reservoir on the Fremont River, and by supplemental ground water wells. In return, the plant would produce a peak 3,000 megawatts of electricity for several Utah and southern California communities for 35 years (Fig. 43).

The Intermountain Power Project (IPP) was funded by a loose consortium of Utah, Nevada, and California communities. In the early 1970s, the IPP was considered only a pipe dream. Then, when the Kaiparowits Project was withdrawn after lengthy court battles made production too costly, IPP was resurrected in 1976.

The close proximity of low-sulfur coal, the unclaimed water in the Fremont River, the assumed support of local communities desperate for economic growth, plus the relative isolation of the Salt Wash site combined to make the Caineville-area site appear ideal. The only stumbling block was the presence of a national park only 10 miles away.

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131 Superintendent's Annual Report, 1981-1983, Capitol Reef Superintendent's Files. The documents terminating this case have not been found in the superintendent's records or Capitol Reef National Park Archives.

132 See the series of photocopied newspaper articles on the Kaiparowits controversy. These are located in Box 8, Folder 16, Capitol Reef National Park Archives. Also see "Kaiparowits Coal Development and Transportation Study," 1 August 1980, Final Report compiled by Environmental Research and Technology, Inc., Document 158-D-135, National Park Service, Technical Information Center, Denver, Colorado.


134 Ibid. Also see IPP information packet, 24 February 1975, Resource Management Files, Capitol Reef National Park.
Why IPP officials believed they would be permitted to build an enormous power plant so close to Capitol Reef National Park is unclear. In an apparent attempt to pre-empt objections, IPP emphasized in all its planning documents that its pollution control measures were the most stringent available, and pointed out that prevailing easterly winds would carry smokestack emissions away from the park. Officials predicted that for just a few days of the year would the wind shift and bring an estimated 10 tons of nitrous oxides, 1.6 tons of sulfur dioxide, and 0.4 tons of fly ash per hour into the Waterpocket Fold.\textsuperscript{135}

IPP also maintained that considerable thought had gone into selecting the plant location. The facility would be built in a valley surrounded by high Mancos cliffs, so that only the tips of the smoke stacks would ever be visible to passersby. Further, the water necessary to cool the plant operation would consist of the unclaimed winter runoff in the Fremont River. IPP managers argued that their water storage system would actually stimulate agricultural development in the eastern end of Wayne County. Finally, the 11,000 construction workers and 500 full-time employees needed to operate the plant would be accommodated by building one or more complete towns in the area between Caineville and Hanksville.\textsuperscript{136}

Although countering objections were raised by some local residents in a rare partnership with environmentalists, air quality regulations would prove to be the silver bullet that killed the proposal. Even while IPP was finalizing its plans, Congress, as part of renewing the Clean Air Act, was deciding whether all national park lands should be designated as Class I airsheds -- meaning that park air quality would be protected by the strictest standards. Even if Congress passed the 18-day variance supported by the Utah delegation, IPP would probably be unable to meet the new requirements.\textsuperscript{137} As IPP Project Engineer Jim Anthony complained to the press, “The unrealistic standards of the proposed [Clean Air] legislation would prevent construction of the Intermountain Power Project because of its proximity to Capitol Reef.”\textsuperscript{138}

Unfortunately for IPP, Congress passed and President Jimmy Carter signed the revised, more restrictive Clean Air Act into law the next year. The August 1977 act states, “National parks which exceed six thousand acres in size and which are in existence on the

\textsuperscript{135} \textit{Los Angeles Times}, 22 May 1977.


\textsuperscript{137} Congressional concern over the impact of Class I designation on proposed southern Utah power plants is addressed in Senator Jake Garn's speech regarding amendments to the Clean Air Act, 94th Cong., 2nd sess., \textit{Congressional Record} (25 March 1976), 122, pt. 7:8125-8126.

\textsuperscript{138} \textit{High Country News}, 6 May 1977.
date of enactment of the Clean Air Act Amendments of 1977 shall be class I areas and may not be redesignated.  

Even though Congress allowed each state to permit some variance to the strict Class I requirements, the president, through his secretary of interior, would have the final say. This virtually guaranteed that Capitol Reef National Park would be protected from any nearby coal-burning power plant, so long as environmental protection was a presidential priority.

It soon became clear that the Carter Administration would not condone such a variance for Capitol Reef. Secretary of Interior Cecil B. Andrus quickly notified IPP managers that they had better start looking at other possible sites. Project President Joseph C. Fackrell was understandably "disappointed." After all, $7 million dollars had been spent on background environmental research for the Salt Water location. Secretary Andrus recognized the burden this put on IPP, but maintained that the location so near Capitol Reef was simply unacceptable. Instead, Andrus urged IPP planners to focus their attention on a site near Lynndyl, Utah, just north of Delta and about 100 miles northwest of Capitol Reef.

In 1979, IPP decided to stick with the Salt Wash site as its preferred location, but consented to prepare an environmental impact statement for the Lynndyl site, as well. Even as late as 1981, Garkane Power Association and a group calling itself Deseret continued to hope for a smaller coal-burning power plant in the Salt Wash area. All these plans were rejected by the Department of the Interior, the Lynndyl site was finally chosen, and a half-sized, 1,500 megawatt plant began operations there in 1987.

This plant joined other coal-burning power plants surrounding the national park lands of southern Utah and northern Arizona. As of 1994, conservation measures have actually decreased the demand for the electricity generated from these plants. In fact, once the

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139 P.L. 95-95, U.S. Statutes at Large 91 (1977):732. The specific emission requirements, state permits, and variances which concern Capitol Reef National Park are found on pages 732-738.

140 Ibid., 737-738.

141 Salt Lake Tribune, 9 August 1977.

142 Ibid., 20 December 1977.


144 High Country News, 31 August 1987. There is a significant and surprising lack of documentation on IPP in the Superintendent's Files and Capitol Reef National Park Archives - especially on the final decisions to terminate the Salt Wash site. These records are perhaps in either the Rocky Mountain Region records or records pertaining to Cecil Andrus's tenure as Secretary of Interior.
Lynndyl plant was completed, its 1,500 megawatts of electricity were merely surplus -- not really needed at all.\textsuperscript{145} 

A convenient, timely change in the 1977 Clean Air Act prevented construction of a huge, coal-burning power plant 10 miles east of Capitol Reef National Park. Remarkably, few people have ever heard of the Intermountain Power Project -- once the most significant threat to Capitol Reef National Park.

\textit{Henry Mountain Coal Fields} 

There are two fairly large concentrations of coal located less than 10 miles from Capitol Reef National Park. The southern end of the Emery coal fields is approximately five miles north of the park boundary. Portions of this field further from the park are presently being mined to supply coal to the Emery (Hunter) power plant near Castle Dale, Utah, and other locations.\textsuperscript{146}

The Henry Mountains coal field, located between the park’s east boundary and the Henry Mountains, is estimated to contain more than 200 million tons of strip-minable coal. The majority of the extractable coal is located in the Emery Sandstone member of the Mancos Formation. In the early planning stages of the Intermountain Power Project, it was anticipated that this coal could supplement the Emery fields in providing a steady source of fuel for the proposed Factory Butte plant.\textsuperscript{147} But according to the 1974 park wilderness proposal, the value of this reserve is “reduced by the relative thinness of the seams...” In addition, states the proposal, “some of the Henry Mountains coal is seriously split by non-coal interbeds and is high in ash.”\textsuperscript{148}

These disadvantages, plus high transportation costs, have discouraged extraction attempts. Yet, no matter how insignificant the results, each venture proved extremely troubling to Capitol Reef managers.

When Capitol Reef National Monument was expanded in 1969, nearly 1,760 coal prospecting permits were pending. Most of these permits were probably for the western edge of the Henry Mountain coal fields, in the area between Cedar Mesa and the Burr Trail, along the western edge of Swap Mesa. Many of these permits were no doubt

\textsuperscript{145} Ibid.

\textsuperscript{146} "Proposed Wilderness," June 1974, 57. This draft has detailed information on exactly where the coal can be found in the park and adjoining areas.

\textsuperscript{147} Ibid., 62-63. Also see James Isenogle, Assistant to the Regional Director, Utah to Superintendent, Capitol Reef, 26 August 1975 and accompanying Environmental Services Group, AMAX, Inc. "Henry Mountain Coal Site, Environmental Assessment Report," April 1975, File L24-Encroachments, Capitol Reef Historic Superintendent’s Files.

\textsuperscript{148} "Proposed Wilderness," 62.
excluded when the final park boundary was reduced and relocated along the western rim of Swap Mesa.\textsuperscript{149}

Beginning in 1974, the Utah State Land Board debated whether to withdraw two of its sections from the park so that coal mining could commence. The two sections were the entire state-owned section on the north side of Divide Canyon (T32S R8E S32) and portions of a state-owned section directly south of Divide Canyon on the edge of Swap Mesa (T33S R8E S17). Of the estimated 17 million tons of the Henry Mountain coal fields that were believed to lie within Capitol Reef, these two sections contained a significant percentage (Fig. 44).\textsuperscript{150} According to Nephi, Utah mining contractor Robert Steele, who made the initial request to the Utah Land Board, the National Park Service had deliberately blocked access to a location that contained "two beautiful coal banks 15 feet wide." Steele argued that the Divide Canyon section alone held $240 million worth of coal.\textsuperscript{151}

In 1975, the Utah State Legislature passed a resolution initially sponsored by the Wayne County Board of Commissioners to alter the eastern boundary of Capitol Reef National Park. The alteration would allow access to and coal mining at Divide Canyon and Swap Mesa. The resolution was sent on to the Utah congressional delegation.\textsuperscript{152} A year later, the state land board also asked Congress to exclude the two state-owned sections from the park. There is no record of any action taken at the congressional level.\textsuperscript{153} In January 1977, the state land board again considered the issue. At that time, NPS Regional Director Lynn Thompson wrote a letter to the board pointing out that the area was on the eastern boundary of the Oyster Shell Reef. The reef, an ancient deposit of fossilized shells and sea life, would be destroyed by any coal mining in the area.\textsuperscript{154} At this point, the attempt to carve out these coal-containing sections of Capitol Reef was dropped. This initial effort to mine coal on Swap Mesa most likely died due to a lack of congressional support and the National Park Service's determination to protect the park from coal mining encroachments by maintaining its existing boundaries.\textsuperscript{155}

\textsuperscript{149} Nielson to Regional Director, 20 February 1969. The exact location of these prospective coal leases is not known, but since the majority of the coal in the park is in the Wildcat and Swap Mesa area, those are the most likely locations.

\textsuperscript{150} "Proposed Wilderness," 59.

\textsuperscript{151} Ogden (Utah) Standard Examiner. 17 July 1974.

\textsuperscript{152} "Planning Notes," Six County Economic Development District. April 1975, Box 8, Folder 16, Capitol Reef National Park Archives.

\textsuperscript{153} The Deseret News, 26 July 1976.

\textsuperscript{154} Ibid., 21 January 1977.

The author has failed to find any correspondence in park records documenting the resolution of this issue.
Then, in 1981 and 1982, there was a renewed bid to strip mine the Henry Mountain coal fields. Meadowlark Farms, Inc., a subsidiary of AMAX, submitted a proposal to the Bureau of Land Management to excavate areas on Wildcat, Swap, and Cave Flat Mesas. All these strip mines would be within sight and sound of much of the South District of Capitol Reef.\footnote{156} In February 1982, the BLM's Richfield District Office completed a draft unsuitability study on the Meadowlark prospects.\footnote{157} It concluded that most of the area was unsuitable for mining because it would threaten the Henry Mountain bison herd's habitat. The area that was determined eligible for coal mining included over 108,000 acres suitable for underground mining and 25,700 acres -- partly bordering Capitol Reef--suitable for strip mining.

Yet, nowhere in the unsuitability study is Capitol Reef National Park even mentioned. Evidently, the BLM would allow coal strip mines on the park's boundary, within easy sight and sound of park roads and backcountry, without ever considering impacts on Capitol Reef's resources. This oversight brought a strong letter of protest from Regional Director Lorraine Mintzmyer.\footnote{158} Meadowlark's mining permits were a significant source of concern for park management through 1983, when AMAX finally relinquished all rights to its preference-right coal leases on the west slopes of the Henry Mountains.\footnote{159}

**Tar Sands**

The final encroachment threat to be discussed concerns the large deposits of oil-bearing sandstones found among the Circle Cliffs, partly within park boundaries. From the 1960s to the 1980s, some speculators believed that the thick oil saturating the sedimentary layers could someday be commercially recoverable. In the 1974 draft wilderness study, geologists estimated that the deposit could yield as many as 700 billion gallons of oil, with a potential value of $2.2 billion (Fig. 45).\footnote{160}

In the 1969 debates over the monument's expansion, the potential of the Circle Cliffs tar sands was used to argue that the monument boundaries were too large, and would restrict

\footnote{156} Message Record, Cordell Roy and Carl Thurgood, 22 September 1981; Deseret News, 30-31 October 1981.


\footnote{158} "Unsuitability Study"; Mintzmyer to BLM District Manager, 30 November 1981, File L3023, Capitol Reef Historic Superintendent's Files. Also see Message Record, Cordell Roy to Carl Thurgood, 22 September 1981, for an example of an earlier request for consideration and cooperation.

\footnote{159} Superintendent's Annual Report, 1983. This is the only reference found mentioning that the AMAX leases had been terminated. There is no record in the Superintendent's Files or park archives regarding how or why the permits were relinquished. The BLM records in Hanksville or Richfield may contain this information.

\footnote{160} "Wilderness Proposal," June 1974, 51-57, includes a very detailed explanation of where the tar sands are located and the various extraction possibilities.
or eliminate multiple uses of certain areas. William P. Hewitt, the director of the Utah Geological Survey, was one who argued during the 1969 congressional hearings that these reserves should not be locked up forever. Hewitt declared, "In today's market, none of these resources represents a commercial deposit; yet, the growing pressure on our known resources insures that any or all of them will become significant in the future."\(^{161}\)

Hewitt and many others argued that if the monument (and later park) boundaries were to remain as proposed, there should at least be allowances for exploration and future mining to accommodate economic pressures or technological advances.

The most significant attempt to mine the Circle Cliff tar sands occurred in 1983-84. Under federal incentives to produce alternative energy sources, William C. Kirkwood, a Wyoming oil and gas firm, submitted a plan to the Bureau of Land Management to convert oil and gas leases to combined hydrocarbon leases covering 60,000 acres of BLM and Glen Canyon National Recreation Area. Of this, 22 miles would border Capitol Reef National Park.\(^{162}\) Since the land was contiguous to a national park, the 1982 BLM/NPS Memorandum of Understanding on Combined Hydrocarbon Lease Conversions stipulated that the Bureau of Land Management must consult with the National Park Service before any plan of operation was approved.\(^{163}\)

The BLM's 1984 draft environmental impact statement on the Circle Cliff tar sands operation determined that a 2,000-barrel per day operation was the preferred alternative. While significantly lower than the 32,000-barrel per day desired by Kirkwood, the smaller amount would barely keep the operation within Capitol Reef's Class I air quality standards. Any expansion of this would violate federal law. The environmental impact statement also determined that the Boulder-Bullfrog road could not be used to haul the oil from the site, since this would adversely impact the nature of the road, which was primarily used by tourists for sightseeing. The BLM suggested that a slurry pipeline through Dixie National Forest would be the best alternative for transporting the processed petroleum out of the area.\(^{164}\)

Why this project was never initiated could not be determined from available documentation of the matter. More than likely, the fairly strict requirements of the environmental impact statement persuaded Kirkwood to abandon its attempt. A drop in oil prices and lack of success from other oil shale projects may also have discouraged the project. This is the last known effort any company has made to gain access to the Circle Cliff tar sands.

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\(^{161}\) The Deseret News. 15 May 1969.


\(^{164}\) Salt Lake Tribune, 27 November 1984.
Conclusions

Numerous attempts to extract minerals, coal, and petroleum in and around the Waterpocket Fold country have proven largely unsuccessful. Prior to the 20th century, gold was the prospector’s mineral of choice. While the presence of gold in the sandbars of Glen Canyon or in small pockets in the Henry Mountains brought many hopefuls to the region, no one made his fortune mining there. If these first prospectors made any lasting contribution at all, it was in carving out some of the first supply trails on the eastern edge of the Waterpocket Fold.

For the first few decades of the 20th century, mining activities were fairly quiet. Then, Cold War demands for uranium created the largest mining boom on the Colorado Plateau and within Capitol Reef National Monument. Speculation was encouraged by federal government supports and lax, outdated mining laws. The uranium boom threatened the integrity of both Capitol Reef’s resources and management. Fortunately, little productive ore was found in the monument, and the Oyler Mine, believed to hold the greatest potential, was snarled in legal red tape throughout the entire boom. Yet, scars were made within the boundaries of the old monument and on lands later incorporated into Capitol Reef National Park. Persistent efforts to mine at Capitol Reef compelled the National Park Service to invest a lot of time and money in having all mining claims within the monument declared null and void.

The combined impact of the 1976 Mining in the Parks Act, the Federal Land Policy and Management Act, and the 1977 Clean Air Act has been to give parks added protection in fending off mining and drilling ventures. These laws have sometimes helped prevent recent attempts to build coal-burning power plants and gain access to oil, gas, coal, and tar sands within or near park lands -- for the time being. “Extraction of coal, oil, and gas near the park,” cautions the 1989 Capitol Reef Statement for Management, “remains a possibility.” The document continues, “Coal and tar sand deposits are considerable and only slight changes in the international pricing structure and/or internal availability could reawaken active interest in these south central Utah resources....Park personnel will track any reawakened interest in extraction of these mineral resources.”

The continued improvement of the region’s transportation network could also encourage future mining operations in the previously inaccessible Waterpocket Fold country.

Today’s park managers, armed with increasingly detailed resource data, are well prepared to track potential encroachments and evaluate potential resource impacts. Ultimately, however, the best insurance against future threats to the integrity of National Park Service lands and resources is continued enforcement of restrictive regulations and close cooperation with the Bureau of the Land Management, the U.S. Forest Service, and the State of Utah.

Figure 41. Uranium Prospects in Capitol Reef National Park.
Figure 42. Viking pipeline proposal.
Figure 43. Proposed power plant alternatives.
Figure 44. Henry Mountain coal fields.
Figure 45. Circle Cliffs tar sands.
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CHAPTER 16

ROADS, TRAILS, AND UTILITY RIGHTS-OF-WAY

In the rugged Waterpocket Fold country, human access has historically been a concern. Led by stockmen and miners, newcomers have blazed roads and trails through narrow canyons and over rocky ridges to the wide open desert country east of the Waterpocket Fold. Because of the difficult terrain, few routes could be maintained. Even the roads that were at least graded remained extremely rough and rocky, effectively barring admittance to all but the most determined.

By the 1930s, businessmen and tourism boosters saw the lack of an all-weather road through southern Utah as the main reason the area remained poor and undeveloped. Cattle and sheep ranchers also wanted better roads to provide easier access to their winter grazing lands. Many were certain that after Capitol Reef National Monument was created in 1937, paved roads would follow. In fact, a key reason for campaigning for National Park Service involvement in the area was the belief that a park would bring about road improvements. Yet, nothing changed for 20 years.

Finally, in 1962, Utah Highway 24 was rerouted and paved through the Fremont River canyon. The new road brought more people into the area and changed circulation patterns in the monument and on surrounding lands. Within Capitol Reef, the old, traditional route through Capitol Gorge was closed by the park superintendent, and trails were built to accommodate hikers. Better access to the area encouraged more people to explore the region's backcountry. Easier travel and improved utilities benefited the local communities, stockmen, and entrepreneurs. As a result, some area businessmen and politicians continued to push for even more roads and utility corridors.

Demands for improved access coincided with the dramatic expansion of Capitol Reef National Monument in 1969 and its redesignation as a national park two years later. Concerns over transportation and utility access were key components of the congressional debate and final authorizing legislation. But even the call for wilderness and transportation studies could not resolve the growing dispute over how access should be controlled in the new park. The drawn out controversy over the paving of the Burr Trail road exemplifies the continuous conflict that typifies road development in southern Utah.

This chapter presents a historical chronology of the road and trail developments within the headquarters or old monument area, as well as on lands later incorporated into the monument and park. Specific analysis of the transportation and wilderness studies required
by the park's enabling legislation, the 1982 Capitol Reef General Management Plan, the ongoing Burr Trail controversy, Revised Statute 2477, and a separate segment on power and telephone rights-of-way conclude this chapter. Since roads, trails, and utilities are a fundamental part of park operations, the other chapters of this administrative history should be cross-referenced.

**Early Monument Roads and Trails**

**Roads Before 1937**

Because only a few hundred people settled the rugged terrain of south-central Utah, state- or county-sponsored road construction was rare until well into the 20th century. The enormous amount of effort required just to survive left little time or money to invest in road construction. When a road was built in the area between the late 1800s and 1930s, it was mostly done by cooperative efforts involving local residents. Given these conditions, the roads of the Waterpocket Fold country throughout this period were crude, at best.¹

By the mid-1930s, the only road passable by car through the Waterpocket Fold was the road that went from Sigurd, through Loa, Bicknell (then Thurber), and Torrey, and then down to Fruita. From Fruita the road veered south, following the washes and hills at the base of the towering Wingate cliffs. The wagon road from Fruita through Capitol Gorge had originally been cleared by Elijah Cutler Behunin in 1883. Further improvements were made in 1892, when the newly created Wayne County Board of Commissioners appropriated $100 of territorial road funds for improvements for the Capitol Gorge section.² From Capitol Gorge, the rough, two-rut road, passed Notom, cut precariously down across the steep sides of Mancos shale hills (the Blue Dugway), and went on eastward to Caineville and Hanksville. In 1910, this route was designated the first state road in Wayne County.³

Other roads connected to Utah Highway 24 at the turn of the century included the Grover cut-off, Notom Road, and the Fremont/Caineville wagon route. The Grover cut-off was a shortcut from Teasdale and Grover that descended the steep Miners Mountain to connect with the main road just west of Capitol Gorge. Evidence of wagon ruts and blasting can still be seen on the stretch of road in the park that is now part of the wagon road loop trail. As late as 1930, this route was included on regional maps.

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¹ This is only a brief overview of the history of roads that bisect Capitol Reef National Park. Please see Chapters 4, 5, 8, 12, and 15 for more details and sources regarding roads prior to monument creation in 1937.


³ Ibid., 75.
Early South District Roads

Notom Road, which leads from the old community of Notom to the Burr Trail, is the oldest continuously used road now within Capitol Reef National Park. Begun as a supply route for gold miners in the 1880s, it was later used to haul wagons of supplies to winter livestock ranges, the Baker Ranch, and a 1929 oil drilling operation in the Circle Cliffs. According to Golden Durfey, a Notom resident since 1910, the roadbed is in nearly the same location as it was when he trailed sheep down it as a young boy. At The Post, the road veered east toward the Henry Mountains. As a point of reference, the Burr Trail was only a steep sheep and horse trail until the late 1940s, and the Halls Crossing Road down through Muley Twist Canyon was never used on a continuous basis (Fig. 46). 4

Early North District Roads

According to local rancher Guy Pace, the first road to Hanksville was not through Capitol Gorge, but rather over the Hartnet in the northern section of the park. From the small town of Fremont, this road went over Thousand Lake Mountain, down the Polk Creek drainage and across the Hartnet to Rock Water Spring. From there, this wagon road went east to Willow Spring, and then down Caineville Wash to Caineville and Hanksville. 5

Regional travel guide Ward Roylance's interpretive handout, "Four Roads Lead to Cathedral Valley's Great Monoliths," further elaborates on this early route. The road, he wrote, was named for Dave Hartnet, who purportedly drove the first buckboard through the area from Fremont to Caineville. Thereafter, the rough trail was used as a freighting route between Caineville and settlements in upper Wayne, Emery, and Carbon Counties. 6 It is uncertain exactly when this route was first used, how often it was used, or whether this was the road traveled by the first settlers to towns east of the Waterpocket Fold in the early 1880s. It is also unknown how closely this old wagon route follows the current road alignments, since no early maps of the North District have been found.

According to Pace and fellow rancher Garn Jeffery, a switchback wagon road into the Upper South Desert was built off the Hartnet road by Alonzo Billing and some members of the Blackburn family around 1895-96. It is unclear if this road reached the Fremont

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5 Guy Pace, interview with Keith Durfey, 19 September 1994, notes in Administrative History files and notes, Capitol Reef Unprocessed Archives.

River. It is known that the Blackburns attempted to farm a small section at the junction of Polk and Bullberry Creeks at about this time.⁷

Other early roads within or near the current boundaries of Capitol Reef National Park included a 1890 wagon route down Meeks Draw to the Last Chance (Baker) Ranch. This road was later realigned down Windy Ridge in the 1920s to make it passable to automobiles. Later known as the Baker Ranch road, it apparently was the first automobile road into the northern end of the Waterpocket Fold. The road south from Fremont Junction to the Last Chance Ranch was built by the Civilian Conservation Corps around 1934. A wagon road evidently was also built from this ranch down Rock Spring Bench into Upper Cathedral Valley at about this same time. Other routes via the Caineville Wash and Oil Bench Road were not used until the 1940s since there appears to have been no route through the length of lower or upper Cathedral Valley.⁸

**Roads In Capitol Reef National Monument: 1937-1938**

One of the key reasons why Wayne County residents wanted a national park was to draw state and federal road-builders, and thus tourist and other businesses, to the area.⁹ A paved highway through the Waterpocket Fold and across the Colorado River to Blanding had been promised by Governor George Dern when Wayne Wonderland was proposed as a state park in 1925. Yet, by the time Capitol Reef National Monument was created on August 2, 1937, there was still no oiled surface in all of Wayne County. Utah 24 from Torrey to Fruita, according to National Park Service Engineer Frank C. Huston, had never actually been constructed, but merely followed an old wagon track that had been established by use over the years. Huston wrote, "For some two miles [inside the monument, the road] follows the bottom of a wash and is impassable after big storms. There are no bridges or culverts. This road continues on through the Monument, going through the bed of Capitol Wash to the crossing of Pleasant Creek at Notom, 12.5 miles from Fruita, and continues on East through Hanksville."¹⁰

Huston found that the road was usually 18 to 20 feet wide, with narrower sections in Fruita and Capitol Gorge. The only bridges in the monument were a 16x36-foot wood span across the Fremont River in Fruita, and a small bridge about halfway from Fruita to

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⁸ Ibid.

⁹ See Chapter 8.

¹⁰ Frank C. Huston, Assistant Engineer, "Report on Roads," 21 February 1938, File CR-630, Part I, Accession #79-60A-354, Container #63180, Box 2, Records of the National Park Service, Record Group 79 (RG 79), National Archives - Rocky Mountain Region, Denver (all RG 79 records are from this archive unless otherwise noted), 1. There are references to accompanying photographs in the original report that should detail the road's alignment in 1938.
Capitol Gorge. There were two spurs off the main road: one went a short distance along the bottom of Grand Wash, and another headed south from the west entrance of Capitol Gorge to Floral Ranch on Pleasant Creek. There is no mention of any other roads in the monument. Huston concluded the only place a right-of-way would be needed was across Aaron Holt's land, where a proposed road realignment and bridge construction across Sulphur Creek were desired.\(^{11}\)

The state highway department also recognized the poor condition of Utah 24. Engineer Huston reported that the state had already identified a new route from Torrey to Fruita, and had begun work between Chimney Rock and Sulphur Creek, just west of Fruita.\(^ {12}\) Later, the main improvements to Utah 24 within Capitol Reef would come as a direct result of the monument's creation.

\textit{CCC Road Work: 1938-1942}\n
Civilian Conservation Corps Foreman Marion Willis and his crew of 17 men arrived at Capitol Reef just a month after the establishment of the monument. This federally funded project, under the auspices of the Emergency Relief Administration (ERA), would continue over the next five years. Besides building the National Park Service ranger station/residence and stabilizing stream banks, crew was to improve the road and trails in the monument.\(^ {13}\)

Even before camp was set up at the base of Chimney Rock, workers began stabilizing the road between the proposed headquarters area and Fruita. The road was also widened to the 18-foot standard used on the state-improved section from Chimney Rock to Sulphur Creek.\(^ {14}\) ERA Foreman Leon Stanley described the work accomplished:

Three-tenths of a mile of road SE of the Fremont River bridge in Fruita was improved. The road was changed from 11 feet in width to 18 feet. Four hundred feet of rock wall was constructed to improve the road width, grade, drainage and to keep the road from sloughing into an irrigation ditch. Part of the ditch was relocated....Seven-tenths of a mile of road below the Fremont River bridge was improved. Some road drainage was

\(^{11}\) Ibid., 2-4.

\(^{12}\) Ibid., 2.

\(^{13}\) See Chapter 5 for more details on CCC work at Capitol Reef.

\(^{14}\) Harlan B. Stephenson, Resident Landscape Architect, “Monthly Narrative Report to Chief Architect,” 25 April to 25 May 1938, File CR-000, Accession 79-60A-354, Box 1, RG 79. The road was eventually widened to only 13 feet in some places, with gravel placed on top of areas more prone to drainage problems. This file contains general reports and correspondence regarding CCC work in the monument. Also see File CR-630 for more details on roadwork, including maps and plans. Other CCC plans and working drawings can be found in Drawer 7, Folder 4, Capitol Reef National Park Archives.

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established. An irrigation ditch was improved and repaired to keep the road dry at this point.\(^{15}\)

This work, along with some minor improvements south of Fruita, consumed much of the road crew’s efforts for the rest of 1938.\(^{16}\)

In May 1939, work began on the stretch of road between Fruita and Capitol Gorge. This work consisted of “cut slope flattening, providing improved sight distance on the sharper curves, minor widening, and drainage improvements which included stone check dams in the road ditches that are eroding badly.”\(^{17}\)

As part of this "temporary" construction, one rock culvert was rebuilt and another was replaced with steel pipe. This shows that rock culverts were in place along this portion of the road before the arrival of the CCC. Because the various documents do not specify how many or exactly where culverts were built by the CCC crews, it is unknown how many of those have lasted into the 1990s.\(^{18}\)

In October and November 1939, work crews began reclaiming the old roadbed between Chimney Rock and Fruita by re-establishing the original slope contours.\(^{19}\)

During 1940, a wooden bridge over Sulphur Creek near the ranger station was completed, and more extensive work was started on the Danish Hill portion of the road south of Fruita.\(^{20}\) In drawing the initial realignment plans, it was discovered that a small portion of the road in S26 T29S R8E was actually outside the monument boundary. The oversight may have delayed the start of the Danish Hill project until the Wayne County Board of Commissioners approved the realignment and granted a right-of-way.\(^{21}\) This final CCC project was almost completed by April 1942, when the Utah State Road Commission promised to provide road equipment to finish the job. Unfortunately, the rapid mobilization for World War II canceled all further federal assistance, prematurely ending CCC work at Capitol Reef.\(^{22}\)

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\(^{15}\) Stanley, quoted in Preston Patraw, Zion Superintendent to NPS Director, 10 August 1938, File CR-207-02-3, Accession 79-60A-354, Box 1, RG 79.


\(^{17}\) Ibid., 3 May to 25 May 1939.

\(^{18}\) Leon S. Stanley to Preston Patraw, Zion Superintendent, October and November 1938, File CR-207-023, Accession 79-60A-354, Box 1, RG 79.


\(^{20}\) See Capitol Reef archives for photos documenting CCC bridge construction.

\(^{21}\) George Brinkerhoff, Chairman, Wayne County Board of Commissioners, to Paul Franke, Zion Superintendent, File CR-630, Accession 79-60A-354, Box 1, RG 79. This portion of the road outside the monument eventually led to all of Section 26 being added to the monument by presidential proclamation in 1958. See Chapter 9.

\(^{22}\) Sam D. Hendricks, Assistant Engineer, to Regional Director, 21 April 1942, File CR-000, Ibid.
At the same time that the CCC was working in the monument, the Utah State Road Commission paved Utah 24 from Sigurd to Torrey and state crews began grading the road to Fruita on a regular basis. The state also began planning for alternative routes through the Waterpocket Fold. Through the late 1930s and early 1940s, commissioners conducted several reconnaissance trips through Wayne and Garfield Counties in search of a route for an all-weather highway through southern Utah. Two routes were proposed. One would pass through Garfield County from Bryce Canyon to Escalante and then around the southern end of the Waterpocket Fold. The other would follow the Fremont River from Fruita to Caineville, continue across the Henry Mountains, and go on to Blanding via the Dirty Devil and Colorado Rivers and White Canyon.

In anticipation of the Fremont River route, Zion National Park Superintendent Paul Franke proposed that the current route through Capitol Gorge be made into a scenic drive. Franke told his regional director:

We much prefer that a parking area be developed at the entrance to both Grand and Capitol Gorges, and a by-pass to permit cars to the wash and travel on the wash gravel down into the gorges. In this way an unimproved road can be maintained in passable condition by removing rocks after each flood. Proper signs at each parking area can describe possible gorge hazards. Such a drive into the gorges would remain always one of the great thrills of this monument.

Thus, the idea of creating a scenic drive along the old Utah 24 alignment through Capitol Gorge was considered as early as 1943. In 1947, Zion National Park Superintendent Charles J. Smith went even further, proposing to close the Capitol Gorge road to traffic once the Fremont River highway was completed. Smith wrote, “We would prefer however to retain a minor spur road through the Gorge terminating in a turnaround at the east monument boundary....It is agreeable to us to retain the Grand Gorge spur as a minor road.”

These plans for changing the roads, and thus the travel patterns, within Capitol Reef National Monument were put on hold for another 15 years. Despite continued promises to local residents and National Park Service officials, road commissioners postponed construction of a paved highway through the Fremont River canyon until the National Park Service acquired the necessary funding through Mission 66.

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23 Franke to Regional Director, 8 February 1943, File CR-630, Ibid.
24 Partial letter and map from unknown source to M. C. Moffet, Assistant Engineer, State Road Commission, included in "Roads and Trails Estimates, FY 1952," File CR-630, Accession 79-60A-354, Box 2, RG 79.
25 Franke to Regional Director, 8 February 1943, Ibid.
26 Smith to Regional Director, 31 October 1947, Ibid.
Meanwhile, the only significant change in Capitol Reef’s roads occurred in 1941, when a new route was used between the Sulphur Creek bridge, past the Fruita schoolhouse, and near the upper north ditch to Alma Chesnut’s property. This road, in approximately the same alignment as the present highway, replaced the old road that crossed Sulphur Creek parallel to the western edge of Chesnut’s property.\(^{27}\)

**Hickman Bridge Trail: 1939 - 1945**

One of the most significant accomplishments of the CCC era was the construction of a formal trail from the Fremont River to Hickman Natural Bridge. The graceful, 230-foot stone span is located up a small side canyon about one mile north of the Fremont River and one mile east of Fruita. Previous to the monument designation in 1937, access was provided by a rough horse trail that ascended a steep slope from the Fremont River. The CCC’s job was to establish a permanent, improved trail from the river to the bridge. Crews were also to build an access trail from the proposed headquarters site through the heart of privately owned Fruita along Sulphur Creek and the Fremont River.

In 1939, the first 1.5 miles of trail were built through Fruita to the foot of the old horse trail. Early photographs of the trail indicate it ran along the Fremont river bed.\(^{28}\) Property owners Orval Mott and R. A. Meeks donated a 100x440-foot right-of-way across the western edge of Fruita for the trail. The Oylers donated two sections of trail right-of-way, 10 feet wide and nearly 1,570 feet long. When the new road past the Fruita schoolhouse was blazed in the early 1940s, the trail was realigned to follow this route until it reached the Alma Chesnut property. From there, apparently, it followed the river through the Oyster property down to the present trailhead.\(^{29}\)

From the river, the CCC crew constructed a dry-laid rock retaining wall to support the trail up a short stretch of steep cliff overlooking the Fremont. From there, the new trail switchbacked up to the rim and continued to Hickman Bridge.\(^{30}\) From the bridge, the plan was to build additional trail up to "Bootleg" or Whiskey Spring and on to the rim overlooking Fruita.\(^{31}\) As of 1948, this "rim" trail had yet to be completed.\(^{32}\) There were

\(^{27}\) Sam D. Hendricks to Superintendent Franke, 24 April 1939, File CR-630, Accession 79-60A-354, Box 2, RG 79.


\(^{29}\) National Park Service Chief Counsel to Zion Superintendent, 18 January 1940, and other memoranda and letters found in File CR-612, Ibid, Box 2. Additional information provided by Richard A. Young, Chief, Division of Land Resources, Rocky Mountain Region, Administrative History draft review comments, 8 November 1994.


also several other proposed trails, including as a route from Grand Wash to Cassidy Arch, that were postponed until the conclusion of Mission 66.\textsuperscript{33}

Construction of these trails was delayed because there was no money. Since Capitol Reef had little visitation, did not even have a regular budget allocation until 1950, and was staffed solely by Charles Kelly as a "volunteer" custodian, it was unlikely that any trail -- or road -- work would be completed after the CCC left in 1942.

**Impacts of Floods: 1938 - 1951**

Late summer flash floods that wash out existing roads and trails have been an almost yearly problem for Capitol Reef managers. A 1938 flood that destroyed the bridge across the Fremont River should have been a clue that any road or trail along the floodplain would not last.\textsuperscript{34} In August 1945, another flood washed large pieces from the Hickman Bridge trail where it followed the Fremont River. By December 1945, Charles Kelly had worked to make the trail passable to horses once again. Kelly also tried to improve the first part of the trail from the river up to the bridge, but could make only temporary repairs. He recommended that "the entire trail be rebuilt on a more permanent basis."\textsuperscript{35}

Then in early August 1951, three cloudbursts struck the Capitol Reef area within two days, dumping almost 3.5 inches of rain and creating tremendous flash floods. The floods raced down the Fremont River, burying large sections of the Hickman Bridge trail in sediment. This flood ultimately was beneficial to the trail, since a work crew from Zion National Park was assigned to rebuild the rock walls and switchbacks first constructed by the CCC. According to Kelly, the crew blasted a new approach to the natural bridge. "This is a permanent improvement," he wrote, "and will eliminate much annual labor."\textsuperscript{36}

The 1951 flood also wiped out the road into Grand Wash and made the main highway through Capitol Gorge impassable for several days. While a state road crew was able to open Capitol Gorge by the middle of August, it would cost the National Park Service


\textsuperscript{33} "Development Outline for Capitol Reef National Monument," 1 March 1938, Ibid., 3.

\textsuperscript{34} Stephenson, "Monthly Report," 25 August to 25 September 1938, File 207-02, Box 1, Ibid.

\textsuperscript{35} Kelly to Superintendent Smith, 5 December 1945, File CR-640, Box 3, Ibid.

\textsuperscript{36} Superintendent's Annual Report for 1951, Box 4, Folder 3, Capitol Reef National Park Archives. O'Bannon, "Capitol Reef National Park: Survey Report," June 1992, states that the Hickman Bridge Trail steps and retaining wall were built in 1940. This additional information shows that while the CCC built the first wall, it was substantially reconstructed in 1951 by the Zion trail crew.

In 1997, serious flooding along the Fremont River washed out a significant portion of this old wall and threatened the stability of the trail. As of January 1998, the wall is scheduled to be replaced once more by a mortared rock retaining wall. The remainder of this and other trails in the park were damaged by unusually heavy rains throughout 1997, and so were stabilized and rehabilitated by a Bryce Canyon trails crew in late 1997/early 1998 -- Ed.
around $250 to bulldoze enough rocks out of Grand Wash to make that spur road accessible to automobiles again.\textsuperscript{37}

\textit{Road Improvements And Boundary Changes: 1951-1958}

When the monument was created in 1937, the boundary ran along the northern edge of Utah 24's right-of-way from southwest of Twin Rocks, past Chimney Rock to the Castle formation. This boundary line had been suggested by monument investigator and Yellowstone Superintendent Roger Toll during the final boundary revisions in 1935, in order to avoid complications over the road's maintenance.\textsuperscript{38} The problem with this boundary line, however, was that the road in those days followed wash bottoms in several locations. When a summer storm brought flood waters down the washes, the repaired road was realigned to one side or the other. This meant that the monument's boundary changed every time the grader came through to clear the road. The situation was exacerbated in 1952 when a new, graveled section of Utah 24 was completed between Twin Rocks and Chimney Rock: it swung the road's alignment northward by almost one mile.\textsuperscript{39} Construction of a completely realigned and paved Utah 24 from Torrey to Fruita in the late 1950s caused further confusion. Toll's idea of making the road's northern right-of-way the boundary was simply not working.\textsuperscript{40}

The obvious solution was to extend the monument's boundaries to include the entire road from the western boundary all the way through the monument. This change would avoid changes to the monument every time the road was realigned, and would give Capitol Reef more efficient control over future road construction and maintenance. A limited boundary adjustment to include at least some of the road was proposed in the monument's 1949 master plan, which described the road as primitive, unimproved, and subject to rerouting by floods and by users (Fig. 47). The plan noted, "It would seem more desirable to place the boundary by section lines or a natural feature less subject to change."\textsuperscript{41}

The 1951 Boundary Status Report proposed that new boundaries be adjusted to run along section lines that would include the entire western approach of Utah 24 from the hill west of Twin Rocks (the monument and park's western boundary) to Fruita. Other small sections proposed for possible boundary expansion along the western side of the monument included an additional 80 acres between Danish Hill and Grand Wash, in order to incorporate the entire road within monument boundaries. Two 40-acre tracts were also

\textsuperscript{37} Chester Thomas, Zion Asst. Superintendent, to Zion Superintendent, 21 August 1951, File CR-800, Accession 79-60A-354, Box 3, RG 79.

\textsuperscript{38} See Chapter 8.

\textsuperscript{39} "Roads and Trails Map," February 1949, Document #158-2101, National Park Service, Denver Service Center Technical Information Center, Denver (hereafter referred to as TIC).

\textsuperscript{40} See Chapter 9 for more details on the 1950s boundary revisions.

\textsuperscript{41} 1949 Master Plan and Development Outline, 6.

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proposed north of Sleeping Rainbow Ranch so that the Pleasant Creek access road would be in the monument, in case it was chosen as the later route for Utah 24. The National Park Service decided to postpone any boundary adjustments until after construction of a new alignment west of Fruita. This left several hundred acres in the status of "no-man's land" throughout most of the 1950s.

Finally, in June 1957, the final six miles from the Twin Rocks formation near the western monument boundary to Fruita was completed. With the new road's alignment firmly established, the proposed boundary revisions were approved by the director, faced no opposition in public hearings, and were formally authorized by President Dwight D. Eisenhower's presidential proclamation on July 2, 1958. Besides extending the boundary south to Sulphur Creek, the 1958 proclamation also incorporated the remaining 240 acres of the section between Danish Hill and Grand Wash, a small section near the Egyptian Temple formation, and the two 1951 proposed small tracts north of the Pleasant Creek. The entire boundary extension was 3,040 acres, which increased the total size of Capitol Reef National Monument to 39,185 acres.

Thus, by the end of the 1950s, Capitol Reef's boundaries had been adjusted, primarily to bring Utah 24 under monument control from the northwestern boundary all the way through Capitol Gorge. The next step was to coordinate the construction of a new paved highway along the Fremont River.

Mission 66 Road Improvements: 1956 -1966

The dramatic changes and controversies that occurred at Capitol Reef National Monument as a result of Mission 66 have been discussed earlier in this administrative history. This section will therefore merely summarize the changes and focus on administrative details regarding rights-of-way, multi-agency agreements, and alignments.

Funding And Fee Collection Issues: 1956 -1958

The construction of a new road along the Fremont River involved multiple state and federal agencies, as well as private property owners. Because of the complexities

42 "Boundary Status Report," 11 June 1951, File CR-600-01, Accession 79-60A-354, Box 2, RG 79. See also Chapters 6 and 7 on the debate over Pleasant Creek versus Fruita as the eventual headquarters location.

43 Patraw to Zion Superintendent, 25 November 1952, File 602, 79-60A-354, Box 2, RG 79.

44 Superintendent's Monthly Report, October 1956 - June 1957, Box 4, Folder 3, Capitol Reef National Park Archives. Documents pertaining to the right-of-way for this construction in 1955-56 can be found in file L3027-U24, Capitol Reef Historic Superintendent's Files.


46 Ibid.

47 See Chapter 7 and Chapter 14 for more background on Mission 66 projects at Capitol Reef.
involved, road construction east of Fruita, formally authorized in January 1958, was not started until the fall of 1961.

Once the decision was made to go ahead with the Fremont River route, the next step was determining which agency would fund which sections of the road. In January 1958, at a meeting of state, county, and National Park Service officials and Fruita land owners, the park service agreed to fund work along the Fremont River through Capitol Reef National Monument. The Utah State Road Commission would seek additional federal funds to complete the highway from the east boundary to Caineville, and would assume responsibility for the maintenance of the entire road through the monument.\footnote{Superintendent Franke to Regional Director, 28 January 1958, File D30, Accession 79-67A-337, Container 919498, Box 1, RG 79.}

The other major issue involved the charging of National Park Service entrance fees on the new highway. In December 1956, the Utah Bureau of Public Roads District Engineer F.W. Smith wrote Superintendent Paul Franke that no fees should be charged on the new road. Smith reasoned that “a charge should not be made on a State highway for vehicles using the road since a large sum would be required to complete the improvement outside of the monument, and ...[since it had] been a State road since 1910.” The State of Utah, he told Franke, wanted “a definite commitment of policy on this matter.”\footnote{Smith to Franke, 10 December 1956, Ibid.}

Franke, in response, indicated that the National Park Service would not waive these fees. Pointing out that "the Utah parks needed 'stepping stones' not 'stumbling blocks'," Franke urged the state roads officials to reconsider their position. He reminded them:

You may recall that some thirty years ago there was a compromise reached on the construction of Federal roads in Zion, Bryce Canyon, and the North Rim of the Grand Canyon. Regulations were issued providing for free passage only to local residents in pursuit of their usual occupation or business. This has never been satisfactory. State residents outside of the local area protest and claim it is discriminatory. Truckers have abused the privilege and greatly endanger the park visitor. Action is now being taken to repeal such exemption.\footnote{Franke to District Engineer Smith, 12 December 1956, Ibid.}

Franke concluded, “At present there are no instrucions or regulations requiring the collection of fees at Capitol Reef. We assume we will be instructed to initiate fees at this area when the developments and facilities provided for park enjoyment by the Federal government warrant such charges.”\footnote{Ibid.}
Regional Director Hugh M. Miller did not agree with Superintendent Franke. In an appeal to National Park Service Director Wirth, Miller stated his concern about charging fees on the new highway:

> It would be unfortunate if this minor problem should loom so large as to jeopardize all past efforts to reach an agreement with the State. You are referred to our memorandum of May 18 which outlines our conclusions...in which we expressed our doubts that a fee should ever be collected for travel over the through road section. This would not preclude the charging of a fee at the entrance to the monument facilities proposed south the junctions of what would then be a monument road exclusively.\(^{52}\)

Director Wirth agreed with Miller and issued the following memorandum on January 25, 1957:

> The State Highway officials may be assured that the Service will never propose collection of fees on the Fremont Gorge section of the road so long as it remains a segment of a through highway and an alternate route not involving unreasonable additional mileage is not available for through traffic or local residents. This would not, of course, preclude the charging of fees at the entrance to the monument facilities proposed south of the proposed State route.\(^{53}\)

Thus, the National Park Service agreed with the state that no fees would be charged on the new highway through the monument. The decision, however, was based on the fact that there was no nearby alternative route, rather than on the concept of traditional use or the fact that the citizens of Utah were funding the western portion of the highway to the monument. During the multi-party meeting in January 1958, this promise not to charge fees was formally accepted and written into the cooperative agreement governing operations for the new highway on May 16, 1961.\(^{54}\)

**Fremont River Road Construction: 1961 - 1962**

In June 1959, the survey of the Fremont River road was complete, but construction was delayed until the right-of-way through privately owned lands in Fruita could be obtained.\(^{55}\)

\(^{52}\) Miller to NPS Director, 21 December 1956, Ibid.

\(^{53}\) Conrad L. Wirth to Regional Director, 25 May 1957, Ibid.

\(^{54}\) Franke to Regional Director, 28 January 1958; Cooperative Agreement between State of Utah and U.S. Department of Interior, CA-1350-61-1, File A44, Capitol Reef Superintendent’s Files.

\(^{55}\) See Chapter 7 for the debate over the routing of the highway. While other options, such as Pleasant Creek, were considered, the Fremont River route was always preferred by the National Park Service.
Delays in the appraisals of the inholdings would postpone construction for an additional two years. These delays were coupled with pressures from local and state officials and politicians to begin road construction. Hence, the National Park Service was pushed to initiate condemnation proceedings on tracts owned by Dean Brimhall, Max Krueger, Cora Smith, and Elizabeth Sprang. Right-of-way through 40 acres east of Fruita owned by the Campbell brother's Wonderland Stages was also required. Final condemnation of lands needed for the highway's right-of-way through Fruita was granted on June 2, 1961. Within one month, a $570,000 National Park Service contract for 5.73 miles of new road within Capitol Reef National Park was awarded to low bidder Whiting and Haymond Construction Company of Springville, Utah. Construction of the new route for Utah 24 began in August 1961 (Fig. 48).56

Despite the annual fall floods and other minor problems, road construction progressed through the rest of 1961. With construction more than half completed, work was suspended on Dec. 15 due to weather, to begin again the following February. On July 18, 1962, the Bureau of Public Roads accepted the new highway as satisfactorily complete. Capitol Reef Superintendent William T. Krueger estimated that the total cost of the road construction was $747,548.19, of which $677,548.19 were actual construction costs. Within one month, travel on the new highway had increased by more than 60 percent since the month before construction began.57

One reason for the increase in traffic on the new road was the larger number of visitors attracted by the new paved highway through the monument. Another reason was the fact that, once Utah 24 was paved all the way to Green River, this road became the shortest truck route between Los Angeles and Denver. Thus, prior to the late 1970s completion of Interstate 70 north of the park, semi-truck traffic through the heart of Capitol Reef was heavy.58

Perhaps the most noticeable resource alteration caused by the road's construction was near the current eastern boundary, where a cut was excavated to divert the Fremont River from its natural course. (In 1962, of course, the monument's eastern border along the Fremont River was west of this road cut, near the Behunin Cabin.) Rather than building the

The route along the northern side of Sulphur Creek was chosen in order to separate park traffic from commercial traffic, with Sulphur Creek as the divider - "Master Plan, Design Analysis," draft, November 1959, RG 79, File D18, Accession 79-65A-580, Container SB202684, Box 1, RG 79.


Superintendent's Monthly Reports, July 1961 to August 1962. These reports give a monthly accounting of work completed. There is no mention therein of any unusual difficulties or delays. Thus, it appears as if the road was constructed on schedule, with no significant problems.

Robert C. Heyder, former Superintendent, interview with Bradford Frye, 1 November 1993, Administrative History files and notes, Capitol Reef Unprocessed Archives. Heyder mentioned the constant truck traffic, and he particularly recalled the nightly sounds of loud air brakes from semi-trucks descending into Fruita from the west.
highway to follow the bend of an old riverbed meander, on property owned by Wonderland Stages, highway officials blasted directly through a soft sandstone cliff. Then, instead of building a bridge over the Fremont River and allowing the flow to continue along its natural course, they blasted out a new channel that cut off the meander and kept the river on the north side of the highway. The diversion takes the river on a new course over a small cliff, thereby creating a waterfall that has become a popular swimming hole for visitors and local youngsters. The old meander in wet seasons still holds water and provides habitat for a number of plant and animal species. Because this road cut and river re-channeling took place outside the monument, the National Park Service had no voice in the matter and apparently kept no records documenting this portion of Utah 24 construction.59

Scenic Drive

Once the new Utah Highway 24 was completed along the Fremont River, the old route through Capitol Gorge reverted to National Park Service control. As per the 1961 cooperative agreement and Capitol Reef's master plans, the road was closed off at the head of the Capitol Gorge narrows. The road from Capitol Gorge to Pleasant Creek remained open to vehicle traffic (Fig. 49).60

The increased traffic brought by the new highway led to a corresponding increase on the Scenic Drive as well. Approximately 40 percent of all visitors traveled at least part of this road, which was dirt south of Fruita. It was washboarded, rutted, and dusty most of the time, and the road turned to mud in the wet season. In July 1966, the National Park Service improved and graded Scenic Drive between Fruita and Capitol Gorge. Twelve new culverts helped solve the drainage problems. Superintendent Harry Linder considered the road to be "in excellent condition for visitor enjoyment with the exception of the dust which the summer rains should take care of."61

In 1969, Scenic Drive was scheduled to receive further attention, including chip-sealing the entire length from the campground to the mouth of Capitol Gorge.62 However, the

59 Golden Durfey, interview with Bradford Frye, 4 March 1992, tape and transcript on file, Capitol Reef National Park Archives, 35-36. Durfey ran an air-track during the road's construction and was responsible for "shooting the ledges down." According to Durfey it only took two weeks to make the road and river cuts through the cliff.

60 1961 Cooperative Agreement, CA-1350-61-1, 3. See Chapter 7 for an analysis of the closing of Capitol Gorge and its impact on park management. Also see Chapter 18 for a listing of Mission 66 related master plans and drawings, which show the proposed circulation changes as a result of the highway's construction.


62 Superintendent Robert C. Heyder to Regional Director, 7 November 1968, File D18, Accession 79-76E-1229, Box 9, RG 79.
unexpected expansion of the national monument and all of its attendant worries evidently canceled that project, which would be revived in the spring of 1990.

**Mission 66 Trails And Access Roads: 1956-1966**

During 1955-56, various drafts of the Mission 66 Prospectus developed the initial philosophy toward new trails within the monument. A November 1955 draft stated:

> As the area is difficult to access and due to the type of visitor, a large portion of the monument should always be reached by trails in preference to construction of roads. A note of caution, however, is necessary; we should not over-build on trails as they are very expensive to maintain in this country and changing patterns of use may mean too heavy a burden if trails buildings (sic) is overdone.⁶³

This preference for trails over roads would become a predominant theme in Mission 66 development of the monument. The final, director-approved prospectus acknowledged that utility roads would have to be constructed to the new campground and possibly to Pleasant Creek. Nevertheless, trails would provide the primary access routes into the spectacular backcountry of the Waterpocket Fold. The prospectus continued:

> Short trails to the natural bridges (sic) and some of the outlying canyons will be constructed to give safe access to hikers or horseback parties. These trails will be designed as to take visitors to vantage points. It is believed that at least one wilderness trail of low standard is justified to give access to the primitive area north of the Reef. This would enable those who wish to get into the true desert wilderness to do so with some effort.⁶⁴

Trail mileage would significantly increase during the Mission 66 period from 1956 to 1966. In the 1956 estimates, only 8.6 miles of additional trails were planned. These included two miles added onto Broad Arch (Hickman Bridge) Trail, which would take visitors to Whiskey Spring and an overlook high above Fruita; 1.1 miles of trail into Cohab Canyon; and various walks and paths in the Fruita area.⁶⁵ Not listed were undeveloped trails along the bottom of Grand Wash and up to Cassidy Arch.⁶⁶

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⁶⁵ Ibid., 17.

⁶⁶ According to Monthly Report, March 1958, Box 4, Folder 3, Capitol Reef National Park Archives, the Cassidy Arch trail was rerouted in the spring of 1958, but little actual trail work was completed.
By 1958, four miles of additional trails "to points of interest" were included in a revised development outline.\cite{67} Then, in 1960, proposed total trail mileage in the monument was dramatically increased to 24.5 miles. This included seven miles of new construction and 17.5 miles of reconstruction or relocation.\cite{68}

That same year, Superintendent Krueger raised the possibility that, since problems with purchasing the private inholdings needed for the new highway's right-of-way were delaying its construction, those funds could be shifted to trails and access roads. Krueger's first priority was the reconstruction and partial relocation of the Goosenecks Road, parking areas, and trail. Apparently, the road out to the goosenecks overlook had existed for some time, but there is no known documentation that gives an initial date for its construction.

As part of this same funding request in 1960, Krueger desired construction of the long-promised Whiskey Spring and rim overlook additions to the Hickman Bridge Trail, as well as rehabilitation of 1.9 miles of the Cohab Canyon Trail. Further trail work was also proposed for the previously unimproved routes to Cassidy Arch, Cohab Canyon spurs, through Pleasant Creek and up to the base of the Golden Throne. Unfortunately, no known record pinpoints exactly when these projects were initiated.\cite{69}

The 1964 master plan drawings of established and proposed roads and trails show a total of 35.78 miles of trails within the monument. Which of these were improved trails, which were simply routes, and which trails were actually completed by 1964 is undetermined.\cite{70}

Although trail construction records are sketchy, most trail building was apparently postponed until 1966. At that time, Superintendent Harry P. Linder reported, "The rehabilitation of the Cassidy Arch Trail was completed in July. This completes rehabilitation work on all but two trails which should be finished by end of summer. Everyone tells us the trails are in better shape than they have ever been."\cite{71}

By October 1966, the Fremont River Trail was completed and work was begun on the Frying Pan Trail connecting Cohab Canyon with the Cassidy Arch Trail.\cite{72}

\begin{itemize}
\item \cite{68} "Park Development Outline," 16 May 1960. Ibid.
\item \cite{69} Krueger to Regional Director, 16 November 1960 and 6 December 1960, File 3415, Accession 79-67A-505, Container 342490, Box 1, RG 79.
\item \cite{70} "Master Plan, Capitol Reef National Park," Roads and Trails Drawing NM-CR-2301-H, Sheets 1-3, August 1962-October 1964, TIC.
\item \cite{71} Superintendent's Monthly Report, July 1966, Box 4, Folder 8, Capitol Reef National Park Archives.
\item \cite{72} Ibid., October 1966. The Fremont River trail was partially paved in the 1980s to make it handicap accessible.
\end{itemize}
By 1973, improved trails in the headquarters area of Capitol Reef National Park also included the three-mile Chimney Rock loop and a half-mile extension of the Fremont River Trail to the campground overlook. Unimproved routes included the narrows of Grand Wash and Capitol Gorge, along Pleasant Creek, out to Sunset Point off the Goosenecks access road, and through Spring Canyon to the north. Another traditional but unimproved route followed Sulphur Creek from the Chimney Rock parking area to the visitor center.73

Additional trails were built by Capitol Reef rangers during the late 1980s and early 1990s. These included an extension of the Rim Overlook Trail another two miles to Navajo Knobs, new trails to a high point above the Fremont River Gorge west of the visitor center, and a three-mile loop trail following parts of the old Grover wagon road (Fig. 50).

Development of new roads and trails in Capitol Reef National Monument was hindered by rugged terrain and isolation. Yet, miles of road and trail work were completed in the equally rugged Zion and Bryce Canyon National Parks from the 1930s through the 1960s, suggesting that isolation was the more important factor delaying construction at Capitol Reef.

When the long-promised highway was finally constructed, circulation patterns within the monument changed significantly. The new highway brought an increasing number of visitors. With additional money and staff, Capitol Reef slowly extended its trail system, thereby enticing visitors to spend more time in the canyons or hiking to scenic view points. Fortunately, planners for Mission 66 and later developments in Capitol Reef had anticipated increased visitation. As of 1994, the roads and trails in the headquarters area, except for the most popular routes up to Hickman Natural Bridge and in the narrows of Grand Wash and Capitol Gorge, remain relatively uncrowded.

Post-Park Roads And Trails

Roads And Trails In New Park Areas: 1971-1973

When Capitol Reef National Park was established in December 1971, its managers inherited 48.5 miles of county roads, 13 miles of former Bureau of Land Management roads, and approximately 32 miles of four-wheel drive roads. There were no additional trails aside from backcountry routes used by ranchers, their stock, or wilderness explorers.74

The county roads included 25.6 miles to the north of Utah 24 and 22.9 miles in the southern portion of the new park. These county-maintained roads included the Caineville

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73 "Proposed Wilderness, Capitol Reef National Park, Utah," Draft Environmental Statement, National Park Service, Denver Service Center, June 1974, Capitol Reef Superintendent's Files, Figure 4.

Wash and Cathedral Valley roads built in the 1940s (the Upper Cathedral switchbacks were cut around 1949), and the Hartnet and Notom Roads.\footnote{Garn Jeffery, interview with Keith Durfey, 10 September 1994. The continual maintenance of these roads has enabled Wayne and Garfield Counties to acquire a BLM-acknowledged right-of-way through the provisions of FLPMA.}

It is unclear which 13 miles were built with Bureau of Land Management funds. In the North District, according to rancher Garn Jeffery, the two rough access roads from his ranch (often called Baker Ranch) and the Oil Bench road down Rock Spring Bench were improved by the BLM during the mid-1940s.\footnote{Ibid.} Those who built the road from the river ford up the bentonite clay hills to the Hartnet road are not clearly identified. Ward Roylance claimed that this road was built by the BLM during the mid-1950s.\footnote{Ward Roylance, "Four Roads Lead to Cathedral Valley's Great Monoliths," 3. It is interesting to note that while the Caineville Wash road is shown all the way past lower Cathedral Valley on the 1954 15-minute Fruita quad map, the Hartnet road is not even indicated.} Rancher Guy Pace, on the other hand, recalls that Wayne County, with his help, built the road during the late 1940s and early 1950s. More research is needed to accurately determine the history of the roads in the outlying areas of the park.\footnote{Guy Pace, interview with Keith Durfey, 19 September 1994; "Natural Resource Development Inventory As Affected by Senator's Moss's Bill S-531," File Phase-Out #1, Capitol Reef Resource Management Files.}

The four-wheel drive roads presumably included the 13 miles of jeep track following Halls Creek south of The Post, as well as several dead-end spur roads in the North and South Districts, used for mining and grazing access. The ranching access roads included the Lower South Desert Overlook (originally built into the South Desert in 1958 for oil exploration), Upper Cathedral Valley line shack and corral, Gypsum Sinkhole and Lower Cathedral Valley access roads in the north, and the Swap Canyon and Red Canyon roads in the south.

Mining access roads included a few small spur roads off the South Draw road from Pleasant Creek to Bowns Reservoir; the Rainy Day Mine road off the Burr Trail; a spur into North Coleman Canyon from a Sandy Ranch road accessing the Oak Creek dam and canal; four-wheel drive routes from Dixie National Forest into Oak Creek Canyon; the Terry Mines road near Bitter Creek Divide; the 1956 oil exploration road past Jailhouse Rock into Little Sand Flat; and a connecting road into the Upper South Desert built in 1959 by seismographers, presumably looking for oil.\footnote{The South Desert mining road information was provided by Guy Pace, interview with Keith Durfey, 19 September 1994.}
Congressional Testimony And Requirements

Immediately after President Lyndon Johnson's presidential proclamation in 1969 expanded Capitol Reef to over 250,000 acres, an immediate outcry of protest arose from the area's traditional multiple-use operators. Since access to many areas of the Waterpocket Fold was limited to a few dirt roads, users feared that some roads might be closed. During the May 31, 1969 subcommittee hearings over the monument expansion, South Desert rancher and Wayne County Commissioner Guy Pace stated:

> With the present trend to put all national parks into natural wilderness areas, additional restrictions are placed on use of the parks. Road development in the area stops, and frequently existing roads and trails are blocked within the boundaries of these areas, and recreational expansion stops. We have had the experience in the old Capitol Reef National Monument of having scenic roads in the monument blocked. Capitol Gorge and Grand Wash have been closed to vehicle travel. Only those who have the time and energy to hike considerable distance can now enjoy this part of the park.

As Pace implied, there was particular concern that the monument's expansion would terminate future road development.

The National Park Service attempted to placate road development advocates while defending the agency's management philosophy. The inherent conflict between these two objectives is expressed in a 1971 draft environmental statement issued for in-service use by Southern Utah Group General Superintendent Karl Gilbert. According to Gilbert, Capitol Reef should attempt to limit visitation into the fragile backcountry while at the same time promoting road improvements. The final environmental statement provided a few more specifics on how this incongruous need for both better roads and protected resources would be managed:

> Additional park roads are not proposed; however, the upgrading of existing roads is proposed. Generally this will be of environmental benefit to the area. The present roads are low standard and have been rerouted here and there to meet erosion conditions. Drainage structures are nonexistent and crossings of washes have been relocated at the whim of the individual maintaining the road. Flash flooding is commonplace. Great care will be

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80 See Chapter 10.


used in determining the final location of these roads and in designing the roads so as to minimize adverse environmental impacts.\footnote{Environmental Statement, Capitol Reef National Park, Utah,\'' Final (n.d.- circa summer 1971) Box 2, Folder 2, Capitol Reef National Park Archives.}

One reason for the delay in formulating a roads and trails policy was the agency's unfamiliarity with the outlying regions of the proposed park. This delay, coupled with local concerns over roads, convinced sponsors of both the Senate and House bills to include a clause requiring a detailed transportation study for the new park. In November 1971, the congressional conference committee, which ironed out the discrepancies between the Senate and House versions, recommended that the Department of the Interior have sole responsibility for this "comprehensive" study and that it be coordinated with the studies for other National Park Service areas in the same region. The conference report specified, "Because of its importance to the future of the communities involved, the report and the recommendations are required to be completed and transmitted to Congress within two years after the date of enactment."\footnote{House, Joint Statement of the Committee of Conference. 92nd Congress, 1st sess., Report 92-685, 30 November 1971, 5. Photocopy in Box 2, Folder 1, Capitol Reef National Park Archives.}

The Department of the Interior seemed to have no objections to this requirement, provided that adequate funding was available.\footnote{Nathaniel P. Reed, Assistant Secretary of the Interior, to George P. Shultz, Director, Office of Management and Budget, 14 December 1971, Box 2, Folder 1, Capitol Reef National Park Archives.} Thus, with no apparent opposition, the following wording was included in the final enabling legislation for Capitol Reef National Park signed into law by President Richard Nixon on Dec. 18, 1971:

\begin{quote}
The Secretary, in consultation with appropriate Federal departments and appropriate agencies of the State and its political subdivisions, shall conduct a study of proposed road alignments within and adjacent to the park. Such study shall consider what roads are appropriate and necessary for full utilization of the area for the purposes of this Act as well as to connect with roads of ingress and regress to the area.\footnote{Public Law 92-207, U.S. Statutes at Large, 85 (1971):740.}
\end{quote}

Similar wording was also included in the legislation creating Arches National Park and expanding Canyonlands National Park earlier in 1971. Notably, however, Glen Canyon National Recreation Area legislation was not passed until the following year and was therefore not formally involved in this particular road study.

Transportation study projections and analyses are often ignored in the political arena. By the 1970s, any road development in such a sensitive area as southern Utah was bound to lead to intense conflict that would be resolved either through compromise or court action.
Thus, the only historical significance of such a transportation study would be contemporary listing of various options.

1973 Transportation Study

A professional services contract was issued to Environmental Associates of Salt Lake City, Utah to complete a joint transportation study for Arches, Canyonlands, and Capitol Reef National Parks and separate master plans for each. Unfortunately, no further documentation, such as a scope of work, has been found to indicate what the National Park Service wanted included in this study, how much money was authorized, or whether the project should be done in-house or under contract. Since the locations of Capitol Reef’s records from the early 1970s are unknown, there is also no documentation of the park’s and region’s reactions to the joint transportation study when it was issued at the end of 1973.87

It is known that the recommendations concerning Capitol Reef National Park were never approved. Further, the 1973 master plan for Capitol Reef, prepared by the same consulting firm and including the same detailed transportation analysis, was rejected as unsatisfactory.88

In developing the joint transportation study and the separate master plans for each area, Environmental Associates evaluated existing and potential regional road systems and visitor services. In conjunction with the evaluations, the consultants also considered the various proposals submitted by the Utah State Department of Highways and various federal agencies, including the National Park Service. The purpose was to derive transportation management proposals that would enhance visitor experience, avoid congestion, maximize capital investment, and minimize non-visitor traffic. The goal seems to have been to combine the various proposals into an acceptable compromise.89

The Utah State Department of Highways proposals were, naturally, the most far-reaching. Ever since the tourist potential of southern Utah was first realized in the early 1900s, state planners, often in cooperation with the National Park Service, had advocated building scenic highways through the rugged and beautiful terrain. By the 1970s, the state was pinning its hopes on a spectacular Lake Powell Parkway from Glen Canyon City through Canyonlands National Park and across Cataract Canyon to Moab. Other paved roads, some of which were of more immediate concern to Capitol Reef, would act as arteries to

87 The specific records of the other National Park Service areas mentioned here have not been consulted, but very likely contain memoranda concerning this transportation study. Road proposals not immediately within Capitol Reef National Park will not be addressed in this section.


89 "Transportation Study," 1-2.
The new roads and upgrades proposed by the state included paving the Boulder-Bullfrog road and Utah Highway 12 over Boulder Mountain. The plan also called for rerouting and paving a road from Fremont Junction to Notom Road, which in turn would be paved all the way to Bullfrog Marina on Lake Powell. If any one of these roads was completed as planned, it would significantly change the volume and nature of visitation to Capitol Reef National Park.\(^\text{90}\)

The consultants' recommendations, termed the "National Park Service Proposal," called for substantially less. According to the contractors, Capitol Reef managers should strive for the worthy but still contradictory goals of increased access and minimal visitor impact. Specifically, the joint transportation study recommended that the section of the Notom-Bullfrog road inside the park boundary be paved, that the Burr Trail be upgraded to an all-weather gravel road, and that the existing dirt road from Utah 24 north to Lower South Desert Overlook be widened and paved.\(^\text{91}\)

In its 1973 master plan for Capitol Reef National Park, Environmental Associates recommended further road improvements. These included a new highway from Fremont Junction southeast to Hanksville, as an alternative to the Fremont Junction-Bullfrog paved road proposed by the state. Another was the possible paving of the entire Notom-Bullfrog Road and the Boulder-Bullfrog Road (except for the Burr Trail, which would be graveled). In the park's North District, a one-way, paved loop road should be constructed to follow the existing dirt roads from Utah 24, through Cathedral Valley, and then over the Hartnet. The plan also recommended that Scenic Drive be improved and paved, that additional trails be built in the Fruita area, and that the jeep track along Halls Creek be restricted to foot and horse traffic.\(^\text{92}\)

Thus, only two years after Capitol Reef National Park was created, there was a wide range of ambitious proposals to improve the roads and trails in the newly expanded area. The plan proposed by Environmental Associates did achieve the goal of blending the various options into a compromise proposal. Yet, even if its recommendations were less than the state or counties desired, they were still too ambitious for the National Park Service -- especially since the park was so new, so little was known about its existing resources, and the political climate in southern Utah was so contentious.

**Wilderness Constraints**

In addition to the transportation study, Capitol Reef's enabling legislation required that a wilderness study of the new park be completed within three years.\(^\text{93}\) Any extensive roadless wilderness within Capitol Reef would obviously restrict road construction or

\(^{90}\) Ibid., 27-28.

\(^{91}\) Ibid., 37-38.


circulation changes proposed in the 1973 master plan and transportation studies. While the wilderness proposals took the transportation and master plans into consideration, there seems to have been no actual coordination between the National Park Service wilderness study and the privately contracted transportation and master plan.

In November 1974, after several preliminary proposals and public hearings, the National Park Service formally recommended that 179,815 acres of roadless wilderness be designated in Capitol Reef National Park. There were to be nine distinct wilderness units, each separated by a road or proposed utility corridor (Fig. 51). The recommendation specified:

No existing roads that are to remain or routes of proposed roads are included in the proposed wilderness. However, a number of old roads not needed for park use are included. There are also many vehicle tracks associated with mining or seismic exploration during the uranium boom of the 50s. While too numerous to show on maps, they also lie within the proposed wilderness. All of these are to be obliterated and the land restored to as natural an appearance as possible.94

Two other proposed roads in the vicinity of Lower Muley Twist Canyon were also rejected, due to their tremendous cost and potential resource destruction. These roads, routes Q and V on the 1974 Proposed Wilderness Map, were initially recommended as part of Glen Canyon National Recreation Area enabling legislation in 1974. They were summarily rejected in the Capitol Reef Wilderness Plan and were never seriously considered again.95

While a wilderness plan for Capitol Reef National Park has never been formally approved, it is the stated policy of the National Park Service to manage any proposed wilderness areas as if they were designated wilderness. Later additions in 1984 mean that management is now empowered to restrict road construction from the nine proposed wilderness areas that make up 90 percent of Capitol Reef National Park.96


95 Glen Canyon's legislation is P.L. 92-593, 92nd Congress, 2nd session, 27 October 1972. In 1983 Superintendent Derek Hambly made a foot reconnaissance of a proposed vehicle route down Lower Muley Twist Canyon, which was considered a possible alternative to paving the Burr Trail. He also rejected the practicality of constructing a road through the canyon - see Hambly to Assistant to Regional Director, Utah, 2 March 1983, File D30, Capitol Reef Historic Superintendent's Files.

96 This policy is mentioned in the park's "Statement for Management" and was substantiated in interviews with Superintendent Charles V. Lundy and former Chief of Interpretation and Visitor Protection Richard Nolan. Former Chief of Resource Management & Science Norman Henderson provided information on the 1984 NPS wilderness revisions. According to Henderson, in draft review comments dated 13 December 1994, no action has been formally taken on any wilderness proposals for
Because of this policy, there have been only a few times when road machinery was used in the backcountry. In 1976, a bulldozer was illegally brought in to clear the Oak Creek stock driveway, and in 1986, Superintendent Robert Reynolds reluctantly allowed the reconstruction of two stock ponds in the South Desert area of the North District.\(^97\) In reality, the wilderness recommendations have had more of an impact on roads and trails in Capitol Reef National Park than either the 1973 master plan or transportation study.

By the end of the 1970s, little road and trail building had occurred since the park's creation at the beginning of the decade. This was mostly because park-wide development plans were postponed until resource surveys were completed.\(^98\) Meanwhile, the 1974 wilderness recommendations mandated that 75 percent of Capitol Reef National Park be managed as roadless wilderness. That stance prevented road-building and ensured gradual deterioration of many of the old grazing and mining jeep trails. By the early 1980s, however, preparation of the first general management plan for the park, right-of-way issues, and the growing Burr Trail controversy would push roads and trails management at Capitol Reef into a more active phase.

**1982 General Management Plan Proposals**

In October 1982, Capitol Reef National Park finally had a comprehensive, director-approved General Management Plan (GMP).\(^99\) Because of their significance to park management, roads and trails were prominently featured in the 1982 GMP. Until a new general management plan is finished and approved sometime in 1998, the 1982 plan provides the operational guidelines by which Capitol Reef National Park manages its resources.

Overall, the 1982 plan instructed park managers to seek an active role in all future road developments. It stated:

> It is not in the interest of the Park Service to finance improvements of the through-roads in the South and North districts during the lifetime of this plan. Should the county and/or state propose improvements in any of these roads, the Park Service will retain a voice in the design of these roads and in the regulation of traffic on them within the park to protect park lands, resources, and visitors.\(^100\)

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\(^{97}\) See Chapter 12 for more details.


\(^{100}\) Ibid., 37.
This statement meant that park managers would work with county and/or state road planners, but would retain the National Park Service’s right to determine final road alignments, speed limits, vehicle size limitations, and permitted periods of use.\textsuperscript{101}

The 1982 general management plan called for construction of one new road, the paving of another, and several new trails, all in anticipation of increased visitation. A total of five action or plan alternatives were considered during the planning process. What follows is a description of roads and trails existing in 1982, and a summary of the desired changes expressed in the general management plan. (See that document for a complete table of alternatives).

A. Headquarters District

Current Conditions. Utah 24 was still the only paved road through the park. Along this road there were 11 scenic pullouts, including the graveled Goosenecks/Panorama Point spur road constructed and maintained by the National Park Service. Scenic Drive was a paved, two-lane road to the campground, with a one-lane bridge over the Fremont River. South of the campground, the road became a two-lane gravel road to Capitol Gorge, where it then reverted to a graded dirt road. The road to Pleasant Creek was a narrow, graded dirt road. There was also the one-mile dirt spur road into Grand Wash, plus seven scenic pullouts. The entire Scenic Drive was owned and maintained by the National Park Service.\textsuperscript{102} The South Draw jeep track that runs south of Pleasant Creek and continues on to Lower Bowns Reservoir in Dixie National Forest is not mentioned in the GMP.

There were approximately 16 miles of constructed or marked trails in the Headquarters District. These included maintained trails to Hickman Bridge, Chimney Rock, Goosenecks, Cassidy Arch, along the Fremont River, and up to the base of the Golden Throne. Other routes, such as those along the bottom of Grand Wash and Capitol Gorge, were unmaintained routes. Some, such as like the Frying Pan Trail, were marked by rock cairns.\textsuperscript{103}

Preferred changes to Headquarters District. The only proposed change was to widen and pave spur road out to the Goosenecks Overlook at a cost of $228,000. Alternative 3 had also proposed spending almost $6 million to pave the Scenic Drive as far as Pleasant Creek, but the preferred alternative would keep the Scenic Drive gravel.\textsuperscript{104}

The only new trail proposed was a two-mile loop through the historic Fruita area, connecting the campground with the picnic area, orchards, schoolhouse, Hickman Bridge trailhead, and visitor center. It was also proposed that trailhead parking be added at

\textsuperscript{101} Ibid.
\textsuperscript{102} 1982 General Management Plan, 77-78.
\textsuperscript{103} Ibid., 78-79.
\textsuperscript{104} Ibid., 31.
Pleasant Creek to encourage use of the canyon route, as well as more backcountry use in general by backpackers and equestrians.

**B. South District**

**Existing Conditions.** The only South District roads mentioned in the GMP are the Notom and Burr Trail roads, which intersect near The Post, and an unmaintained four-wheel drive road up Upper Muley Twist Canyon to the Strike Valley viewpoint trailhead. The Burr Trail and lower section of the Notom Road were maintained by Garfield County; the portion of the Notom Road north of the county line was maintained by Wayne County. Other known roads, such as the Halls Creek jeep road and the Rainy Day, Terry, and North Coleman Canyon mine access roads were not mentioned, most likely because they were considered permanently closed. All trails in the south district were unmaintained, backcountry routes. 105

**Preferred Changes.** No major alterations were seen for the Notom Road. It was proposed that small, five-car parking areas be added at Burro, Cottonwood, and Five-Mile washes and Sheets Gulch. While it was assumed that some change would occur to the Burr Trail, no specific alternatives were considered in the GMP. According to the general management plan, the anticipated increase in visitation resulting from the road's improvement might necessitate construction of a permanent contact station, employee housing, and a primitive, expandable campground at the foot of the Burr Trail switchbacks. 106

The only new road proposed anywhere in the park would change the access to Strike Valley Overlook. The plan recommended that the old road through Upper Muley Twist be turned into a foot trail, and that a new, 2.5-mile gravel road be constructed from a point further west on the Burr Trail to a 15-car parking area at the Strike Valley trailhead. Gravel would also be applied to the rough, often impassable road over Bureau of Land Management land out to the Brimhall Bridge/Halls Creek Overlook Trail. New trails in the South District would be built at Bitter Creek Divide, with a spur trail to the Oyster Shell Reef. 107

It should be emphasized that all these improvements were contingent on road improvements and the corresponding increase in visitation. Until the roads were upgraded, the NPS preferred that little change occur in the South District of Capitol Reef.

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105 Ibid., 78-79.
106 Ibid., 34-35.
107 1982 General Management Plan, 34.
C. North District

Existing Conditions. The two main access roads into the North District were the Caineville Wash and Hartnet roads. Both were graded dirt, maintained by Wayne County. Like the roads in the South District, they were considered impassable when wet, but the North District roads were much rougher and passable only to high clearance two-wheel or four-wheel drive vehicles. Short spur roads led from the Hartnet road to Lower South Desert Overlook, the Upper South Desert Viewpoint, and the Cathedral Valley Viewpoint. Spurs off Caineville Wash Road led to lower Cathedral Valley and the Temples of the Sun and Moon. It is assumed that these roads were also maintained by the county. The access roads up to Fremont Junction to the north or over Thousand Lake Mountain to the west are also mentioned.\(^{108}\) By 1982, the former roads into the South Desert were closed and off-road vehicle use was prohibited.

Preferred Changes. Unlike the 1973 master plan proposals, no new development or road improvements were sought for the North District. Visitor access would be limited to the existing roads and hiking routes from Lower South Desert Overlook to Jailhouse Rock, from the Hartnet Road out to Middle Desert Viewpoint and the Lower Cathedral Valley Overlook. An additional trail was planned around the Wall of Jericho in Upper Cathedral Valley.

1994 Conditions

The 1982 Capitol Reef General Management Plan called for few significant changes in terms of roads or trails. The new Strike Valley access was the only new road planned, and only the short Goosenecks access was recommended to be paved. New trails would be limited to increasing the marked backcountry routes and creating a new, two-mile loop trail through Fruita.

Since 1982, little has changed in the still-isolated backcountry areas of Capitol Reef National Park. There are a few widened trailhead parking areas and improved trail markings in Upper and Lower Muley Twist Canyons in the South District. There is also a new dirt access road into the Oak Creek trailhead, necessitated by complaints from Sandy Ranch that the old access road crossed its property.\(^{109}\)

In the north, a new trail was constructed by former Backcountry Ranger Larry Vensel out to the Wall of Jericho in Cathedral Valley. There are have been no other significant changes to the North District’s roads or trails.

\(^{108}\) Ibid., 78.

\(^{109}\) The new road follows along the old Oak Creek stock driveway and was built circa 1984. See Superintendent Hambly to Charles W. Oliphant, 8 November 1983, File L3027, Capitol Reef Superintendent’s Files.
While Scenic Drive was paved in 1987 as far as Capitol Gorge, the Goosenecks Road is still gravel. New trails to Navajo Knobs and the wagon road loop and better access to Spring Canyon have increased trail variety in the headquarters area. Rangers have also marked a new trail from the highway across from the visitor center going up behind the "castle" formation. Surprisingly, after a steady increase during the early 1980s, backcountry use in the park has remained relatively stable during the 1990s.

The History Of The Boulder-Bullfrog Road

The 66-mile-long Boulder-to-Bullfrog Road that crosses the southern part of Capitol Reef National Park has developed into one of the most controversial roads issues in recent history. Because of the spectacular switchbacks named for rancher John A. Burr, the entire road is commonly called the Burr Trail. This road has had more of an impact on the contemporary management of Capitol Reef National Park than any other, with the possible exception of Utah Highway 24.

The following summary history of the Boulder-to-Bullfrog Road was taken from the author's "Boulder-Bullfrog Road: Comparison of Sections Before and After 1942," which was later abbreviated and included in the 1993 "Environmental Assessment for Road Improvement Alternatives, Boulder-to-Bullfrog (Burr Trail)" (see Fig. 46).

Section 1 - Boulder To Capitol Reef National Park: 1880-1942

Until 1942, the main reason anyone ever went east from Boulder to the Circle Cliffs was to trail livestock. Given the lack of motorized transportation in eastern Garfield County, it is easy to understand why there was no road on the stretch from Boulder to what is now Capitol Reef National Park until after World War II.

According to Garfield County ranchers, a well-used cattle trail went east-southeast from Boulder across Deer Creek, into The Gulch, and then through Long Canyon and onto the flats at the base of the Circle Cliffs. This trail probably looked similar to other cattle trails in the area, varying in width according to the terrain. If the livestock were being driven over the more wide open benches of pinyon and juniper vegetation, the trail could have been over 50 yards wide in places. When the trail descended steep sandstone ledges toward canyons, such as Deer Creek and The Gulch, the animals would line up and move single file.


Unfortunately, it is impossible to document exactly where the cattle trails lay in relation to modern roads. Places where some of the trails descended into canyons are still visible today. But in more vegetated areas and in flood-cleansed wash bottoms, there is little to follow. Therefore, it is unclear if the road from Boulder to Long Canyon follows the exact alignment of a traditional cow trail.

It is known, however, that the Boulder to Long Canyon route was not the preferred livestock driveway by the early 1930s. Instead, the route agreed upon by cattle ranchers "follow[ed] the road through Boulder thence down through Draw east of Durfey Bench to Deer Creek, Cross Steep Creek Bench to Steep Creek, down [S]teep Creek to the Gulch and on to Egg Box Canyon."112 This route was improved in 1935-36 by the new Grazing Services and Emergency Relief Administration, in cooperation with affected ranchers. Wagons of supplies and tools could get up The Gulch and out Egg Box Canyon to the improved Brinkerhoff Spring and other water holes at the northern end of the Circle Cliffs by this route.113

In either 1935 or 1937, a crude wagon road was blazed up Long Canyon's wash bed and out into the Circle Cliffs basin as far as Horse Canyon. Wagons and horse or mule teams pulling dirt scrapers were used to make the boulder-strewn wash bed accessible by wagon. It is unclear what the road looked like between Long and Horse Canyons, but the switchbacks on the 1953 United States Geological Survey (USGS) topographic quad map and the current alignment are definitely different.114

Significantly, no county road east of Boulder is in evidence on the official Garfield County road map of 1938. Thus, the wagon road east from Boulder through Long Canyon must have been extremely rough and seldom used.115

By 1942, the section of the Boulder-Bullfrog Road east from Boulder to Capitol Reef National Park included a wagon road, in approximately the same alignment as today, southeast from Boulder across Steep Creek Bench. Here, one either descended Steep Creek or went south into The Gulch at its junction with Long Canyon. Once in the canyon bottom, a crude wagon road followed the canyon wash bed up to the head of Long Canyon and descended to Horse Canyon, where the road stopped. This road, like the trails before, was still used primarily for moving livestock. There is no evidence of anything but livestock trails across the Circle Cliffs basin along today's park boundary.

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112 LeFevre, Boulder Country, 249-250.
113 LeFevre, 251.
114 Garfield County First Finding of Fact, Sierra Club v. Hodel, 7; see Wagon Box Mesa 15-minute quad map, USGS, 1953 (aerial photos taken 1952).
115 Official Garfield County Road Map, compiled by John Clark, 1938, posted in Garfield County Recorder's Office, Panguitch, Utah.
Nor is it clear if any livestock trail followed close to the Boulder-Bullfrog Road's present alignment. What is clear is that the route through Long Canyon was only one of many into the Circle Cliffs.116

Section 1: Post-1942

After World War II, BLM range improvements and the uranium mining boom caused additional work on this section of the Boulder-Bullfrog Road. Improvements were made to the wagon and, later, jeep road in 1947 and 1950. Yet, the road continued in the bottom of Long Canyon.

The 1951 Garfield County road map is, unfortunately, not very detailed, but it does indicate that the road out of Long Canyon had not yet progressed much past Horse Canyon by the end of 1950. The road appears to be in roughly the same alignment as it travels southeast from Boulder, across Deer Creek, and up onto Steep Creek Bench. An additional switchback into The Gulch is indicated on the 1951 map, that is not shown on the 1964 U.S. Geological Survey (USGS) quad. On the 1951 Garfield County map, no drainage is indicated as Long Canyon. Nevertheless, the 1951 map and a 1953 USGS quad map both show a road following the same general direction out of Long Canyon, crossing Horse Canyon, branching, and then ending. Evidently, as of 1951 there was still no connection with either the Silver Falls-Lampstand Road, which runs north/south through the heart of the Circle Cliffs, or with the Burr Trail to the east.117

The 1953 USGS topographic maps of the area compiled from aerial photos taken a year earlier show a four-wheel drive road all the way from Boulder, through Long Canyon and across the Circle Cliffs to the present western park boundary. This road would be used throughout the 1950s by stockmen driving cattle, by hundreds of uranium miners and their ore trucks, and by a few tourists, too.

Further improvements and realignments of the road were made from 1961-72. These included a new dugway down into The Gulch, partial realignment of the road through Long Canyon and into the Circle Cliffs, and a new cut-off near the Lampstand Road.118

The road remained essentially unchanged from 1976 to 1988, except for minor improvements and maintenance. From 1988-91, major development of the road included improving the stretch into The Gulch, and general widening, realigning, and chip sealing of


117 Garfield County General Highway Map, 1951, on file with Utah State Historical Society Map Library, Salt Lake City, Utah; also see Steep Creek, Lampstand, and King Bench 7.5-minute quads, USGS, 1964 and Wagon Box Mesa 15-minute quad, USGS, 1953.

118 Garfield County's First Finding of Fact, Sierra v. Hodel, 11
the 26 miles between Boulder and Capitol Reef's western boundary. A new bridge was built over Horse Canyon, but the wash crossings over Deer Creek and The Gulch were only slightly improved.

By 1995, the section of the Boulder-Bullfrog Road from Boulder to Capitol Reef was quite different from the rough wagon road of 50 years earlier. The significant changes in alignment are documented above. It is the traveler's experience, however, that has really changed. The winding, narrow dirt road that took the adventurous traveler through the incomparable beauty and isolation of the Circle Cliffs region has become a smooth, curving highway accessible by any type of vehicle.

Section 2 - Western Capitol Reef Boundary To Eggnog Junction: 1880-1942

The steep, 600-foot slickrock and scree slope on which the Burr Trail road is located is the only relatively easy crossing over the entire southern Waterpocket Fold. The route was probably used initially by American Indians, but was later improved by sheep and horse ranchers to allow their livestock to move between summer and winter ranges. The narrow, precarious livestock trail probably began in the Burr Canyon wash bottom to the east of the slope and then started up the north side before beginning to switchback across the slope to the rim above.119

Once at the top, herds were driven in many directions within the Circle Cliffs. Sheep were driven to the north, up around the Lampstand and Corner Flats. Though documentation is absent, this livestock trail probably went through the Studhorse Peaks, just as the modern road does. This is the most likely route because the cliffline to the north and east of the Studhorse Peaks would have prevented travel in those directions. Any other route would have meant a lengthy detour to the south and west before looping back around toward the Lampstand.120

Less than a mile from the bottom of the switchbacks, the trail along the wash bottom would have intersected with the Notom supply road coming from Capitol Gorge and down the eastern side of the Waterpocket Fold.121 This supply road was used by wagons since the 1880s to bring food, water, and other necessities to those tending livestock in the Circle Cliffs and Henry Mountains. Supplies were left in large, wooden storage boxes located near The Post, about two miles south of the Burr Canyon Wash-Notom Road


120 Ibid.; also see Bitter Creek Divide and Wagon Box Mesa, 7.5-minute quads.

121 The assumption that the trail was in the bottom of the wash is based on 1908 and other dated inscriptions in the wash bottom, plus what looks like an old livestock trail that goes around a small dryfall. The rest of the wash presents no obstacles to travel by livestock, but is too narrow for a wagon or truck.
Junction. Herders in the Circle Cliffs would go down the Burr Trail switchbacks to The Post, load up their pack mules with supplies, visit with others there for the same purpose, and then head back up the trail.\textsuperscript{122}

The Notom Road continued past The Post, cut between two ridges to the east (passing the modern Capitol Reef boundary in one mile), and then went south-southeast for another seven miles to the present Eggnog Junction. From there, the old wagon supply road headed east and up unto the base of Mt. Hillers in the Henry Mountains.

This section of the Boulder-Bullfrog Road did not change much from 1880 to 1942. There is no recorded evidence of road or trail improvements along this stretch during that time. The physical description of the road is substantiated by two maps. The topographic map of the Henry Mountains region surveyed between 1935 and 1939 clearly shows the Notom supply road -- almost identical to its present alignment -- as a double-dashed line going south past The Post and continuing on past today's Eggnog Junction. The Burr Trail is clearly labeled and marked as a switchback trail ending at the top of the Fold. There are no indications of trails continuing to the west from the top of those switchbacks.\textsuperscript{123}

The September 1939 map of Henry Mountain and Boulder Unit, Utah Grazing District No. 5 also represents the Notom Road with a double-dashed line road south from Notom. The Burr Trail is also labeled and represented by a straight, double-dashed line due west for about one mile before stopping. This map does not indicate switchbacks on the Burr Trail or the part of the road heading off toward Eggnog Junction.\textsuperscript{124}

From 1880 to 1942, the physical characteristics and use of the Burr Trail switchbacks and section of the Notom road from Burr Canyon past The Post to Eggnog Junction did not change. There are two likely reasons why a wagon road was not cut up the Burr Trail. First, the slope was too steep to cut a road into with the roadbuilding technology available at the time. Second, a wagon road was already available through the rough, seldom-used, Halls Crossing route through the southern end of Muley Twist Canyon.\textsuperscript{125}

\section*{Section 2: 1942 To Present}

The most significant alteration to the Burr Trail occurred in 1948 when the Atomic Energy Commission brought in a caterpillar tractor to cut a crude road up the Burr Trail


\textsuperscript{123} Hunt, \textit{Geology of Henry Mountains}, supplemental map.

\textsuperscript{124} Map of Henry Mountain and Boulder Unit, Utah Grazing District No. 5, 11 September 1939, on file in Utah State Historical Society Map Library.

\textsuperscript{125} Frye, "Boulder-Bullfrog Road," 5-14.
switchbacks, improving access to uranium claims within the Circle Cliffs.\textsuperscript{126} It is still unclear whether this new "road" followed the old livestock trail up the switchbacks or how far west of the switchbacks this road continued when it reached the top. It is most likely that at this time the route was diverted from the Burr Canyon wash bed onto the southern bench.

At the base of the steep slope, it appears the tractor began at the north side (exactly where the trail began) and then cut immediately back to the south to create the first switchback. A small section of what maybe the old trail is still visible, climbing some yellow tinted sandstone on the north side between this first and second switchback. If so, it is the only visible remains of the old trail.

Once on top, the 1948 road most likely followed the Muley Twist wash bottom just as the present road does, since there is no physical evidence of any other road. The original route after the road leaves Muley Twist Wash is undetermined. According to the 1953 Wagon Box Mesa topographic map, the route (still marked as a single dashed line signifying a simple pack trail) follows a side wash coming in from the west. But close examination of this presumed route shows no clear evidence of any roads except ones leading south to the Rainy Day mines. Since this road would have been used extensively by miners and ore trucks by 1952 (when the aerial photos for the USGS map were taken), and since there is no evidence of major road improvements until the 1960s, the road should still be visible where it followed and crossed this drainage. Therefore, either the map is wrong or the road was not built west of the Burr Trail until after 1952.\textsuperscript{127}

From the west end of the state section (T34S R8E S16) for the last two miles to the western Capitol Reef boundary, the road appears in the same alignment on the 1953 and 1964 USGS maps. During that time, cartographers upgraded the road symbol from double-dashed lines to continuous double lines representing a graded dirt road. Today, travelers may notice a wide corridor cleared of trees or large shrubs along both sides of the road. This was probably created in 1967 when the Burr Trail switchbacks and other sections of the Boulder-Bullfrog Road were widened and improved.\textsuperscript{128}

The Burr Trail road was extensively used by uranium miners and their ore trucks throughout the 1950s and into the 1960s. Even though the road must have been rough, most likely requiring four-wheel drive, miners would have used the Burr Trail to get to their claims because it was quicker and easier access than coming in from the west through Long or Silver Falls Canyons. Loaded ore trucks would descend the Burr Trail, bound for the refinery at Moab. Families of the miners used the Burr Trail to visit relatives at the mines, often staying at barracks provided by the uranium mine company. A few tourists

\textsuperscript{126} Woolsey, "History of the Burr Trail," 2.

\textsuperscript{127} Wagon Box Mesa 15-minute quad; Rainy Mine road-building information from Golden Durfey, interview with Bradford Frye, 27 March 1992.

\textsuperscript{128} Ted Christensen, 1967 project engineer, telephone interview with Bradford Frye, 28 March 1992, notes on file in Burr Trail history notes.
also used the Burr Trail to take pictures or view the petrified wood deposits within the Circle Cliffs. The new, primitive road that followed the old Burr Trail livestock driveway was now more heavily used, and used for more purposes, than ever before.  

In 1967, as mentioned above, the Burr Trail switchbacks and access roads were widened and improved. This was done as part of the same project that constructed the new road from Eggnog Junction to Bullfrog, and the paved highway from Hanksville to the future site of Bullfrog Marina on Lake Powell. According to Project Engineer Ted Christensen, the curves and sides of the switchbacks were widened and renovated to minimize the slumping that occurred during wet weather. Yet, Christensen also learned that too much widening would also cause the road to slump, because the clay soil base made a poor road bed.

These projects were funded by the federal Economic Development Administration. Under a cooperative agreement with the Utah State Highway Commission, Garfield Country was to assume all maintenance responsibilities for the completed road. These later improvements made little change to the road’s alignment through the present park boundaries. However, Capitol Reef National Monument would not be expanded to include the Burr Trail for another year and a half.

Sections 3 And 4 - Eggnog Junction To Utah State Highway 276: 1880-1942

There is no evidence of any historic trail or road in the vicinity of this section of the road. The dry benches and impassable, cliff-lined canyons draining into the Colorado River forced early livestock and supply trails to veer east, close to the base of Mt. Hillers.

Sections 3 And 4 - 1942 To The Present

This section of the Boulder-Bullfrog Road was built over previously roadless land in 1967, under a grant from the federal Economic Development Administration. It was part of the larger project to bring roads into the newly developed Bullfrog Marina on Lake Powell. The road was a totally new alignment, except where it crossed an occasional old range improvement and oil drilling road (built in the late 1940s or early 1950s). A large fill bank was constructed to enable the road to descend off the steep-walled Middle Point, and

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129 Frye, "Boulder-Bullfrog," 16-20; also see LeFevre 254 and Woolsey, 1-2.
131 Cooperative Agreement dated 10 May 1967, part of Project No. EDA 08-1-00125 Records, Garfield County Engineer Files, Panguitch, Utah.
132 Hunt, supplemental map; Wagon Box Mesa and Mt. Pennell 15-minute quads, USGS, 1953; Wagon Box Mesa and The Post 7.5-minute quads, USGS, 1987.
switchbacks were cut down into Bullfrog Canyon wash. From there, the road went then
east to a junction with Utah 276. The road now passes through Glen Canyon National
Recreation Area. On either side of the recreation area, the road has been extensively
widened and either paved or chip-sealed. Except for the rough, dirt portion of the road
in Glen Canyon National Recreation Area, this section of the Boulder-Bullfrog feels and
looks like the modern road it is.

The new Boulder-Bullfrog Road is a recent phenomenon compiled from a myriad of roads
and trails that have criss-crossed the rugged Waterpocket Fold country since the 1880s.
Rugged terrain and minimum use by ranchers and miners had left the area free from
improved roads well into the 1960s. Then, the hurried designation of large National Park
Service areas at Capitol Reef and Glen Canyon National Recreation Area, coupled with
the popularity of the Circle Cliffs and Escalante wilderness areas, led to a new focus
toward tourism and recreational development. To capitalize on this popularity and
stimulate economic development, Garfield County desired to pave the entire Boulder-
Bullfrog Road.

On Aug. 16, 1968, state and county officials gathered to dedicate the newly constructed
Utah 276 from Hanksville to Bullfrog and its Boulder-Bullfrog connection. The purpose
of these new roads through the region is exemplified in the opening remarks of the master
of ceremonies, Weston E. Hamilton:

> We want to welcome you to the dedication of what we think is one of the
> most important road programs in the State of Utah. This is the type of
> program that we enjoy and appreciate. It does two things. It opens up an
> area for a better economic program and living for people who live in this
> area, but it also opens up a new part of our state that has been locked in for
> residents of the State of Utah and the country.

Such occasions as the dedication of a new road -- or national park -- can stimulate the
optimistic nature of boosters who promote tourist development. Yet, not even the most
pessimistic person at that 1968 ceremony could have anticipated the convoluted path the
Boulder-Bullfrog Road was about to blaze through the courts, congress, and the media.

The Modern Burr Trail Controversy

Over the past few decades, many local, state, and federal officials have expressed the
desire to open up the isolated wilderness areas of the Waterpocket Fold country to
multiple-use management. Countering these demands have been persistent, assertive

133 Christensen interview; also see Stratton Section documents, Garfield County Engineer’s Files,
Panguitch, Utah.

134 Hamilton, "Dedication Ceremonies," 16 August 1968, Stratton Section Records, Garfield County
Engineer’s Files, 1.
conservation groups determined to keep the roads primitive and the backcountry isolated. These pressures have increased substantially since the rapid expansion of National Park Service areas in southern Utah, the enormous rise in visitation to Lake Powell, and the growing tendency by both sides to confront rather than compromise.

The Boulder-Bullfrog Road has been the subject of a constant stream of suits, countersuits, federal court and Interior Board of Land Appeals decisions, and congressional investigations and appropriation bills. While the majority of the attention has focused on the BLM section from Boulder to the western park boundary, uncertainty over the resolution of the disagreement has kept the National Park Service in a state of planning limbo.

Rather than detailing the tangle of court decisions and political posturing during the recent history of the Boulder-Bullfrog Road, this next segment summarizes the story with an emphasis on the National Park Service position throughout the dispute.¹³⁵


During the late 1960s, the ambitious plans of the Utah State Department of Highways to build an elaborate network of paved roads throughout the Colorado Plateau were not enthusiastically received by the National Park Service. Concerned that new or upgraded roads would harm resources and overburden agency facilities and personnel, the National Park Service took the position that only modest road improvements should be encouraged in the new national parks and recreation areas of southern Utah. The differences between the state and National Park Service positions are easily seen in the summary proposals found in the various transportation studies and environmental assessments from the early 1970s to the 1990s.¹³⁶

Conservation groups were even more adamantly opposed to the state's road plans. In fact, some joined the National Park Service in offering to accept the paving of the entire Boulder-to-Bullfrog Road as an alternative to building an entirely new highway (the previously mentioned Lake Powell Parkway) across the southern end of the Waterpocket Fold from Glen Canyon City to Bullfrog Marina.¹³⁷

¹³⁵ See "Environmental Assessment for Boulder-to-Bullfrog Road," March 1993, 5-9, for a summary of the legal issues. Another excellent source of information is the collection of Burr Trail-related press clippings, Box 8, Folder 6-12, Capitol Reef National Park Archives.

¹³⁶ For an example of the continual differences between the state and NPS proposals, see Environmental Associates, "Transportation Study: Arches, Canyonlands, Capitol Reef National Parks, Utah," 1973, 26-38 and "Environmental Assessment for Road Improvement Alternatives, Boulder-to-Bullfrog (Burr Trail)," 1993, 25-35.

¹³⁷ 1973 Transportation Study, 32. For more information regarding the National Park Service role, see James M. Eden, Assistant Regional Director to Regional Director, 6 October 1969, File A2623-0, Accession 79-73A-136, Container 790695, Box 1, RG 79.
Once it was obvious that Congress would not fund the more ambitious road plans, state
and county officials decided to improve already existing roads. In the Waterpocket Fold
country, these included Utah 12 over Boulder Mountain and the Garfield County road
from Boulder to Bullfrog Basin. Paving the Boulder-to-Bullfrog Road had always been
the intent of the county and state planners, but initial funding had proven inadequate.\textsuperscript{138}

Even the National Park Service was resigned to seeing some kind of improvement to the
Burr Trail through Capitol Reef. The 1979 Task Directive for a new general management
plan called for development of alternatives for road development and improvements within
the park, planned in coordination with state, county, and other federal agencies.\textsuperscript{139}
Likewise, the 1982 Capitol Reef general management plan detailed development plans for
a ranger/contact station, personnel housing area, visitor campground, and a new road to
Strike Valley Overlook, all on the assumption that the Boulder-Bullfrog Road would be
improved and would attract more visitors to the area.\textsuperscript{140}

In early 1983, probably at the request of Garfield County officials, Utah Senators Jake
Garn and Orrin Hatch proposed a $600,000 feasibility study for paving the road and
creating a 69-mile-long “Burr Trail Highway.”\textsuperscript{141} Predictably, local environmental
organizations responded with outrage, setting the stage for the conflicts that followed.

According to then-Chief Ranger Richard Newgren, the National Park Service took no
initial position on the Burr Trail improvement. However, in a Salt Lake Tribune report,
Newgren stated, “We're expecting that eventually the roads in the south end of the park
will be improved and we're making plans to accommodate it.”\textsuperscript{142}

This reluctant acceptance of a Boulder-Bullfrog Road upgrade would eventually enable
National Park Service officials to approach Garfield County with a minimum-improvement
compromise. Yet, throughout most of the 1980s, bitter confrontations between those
favoring and those opposing Burr Trail improvements made it virtually impossible for a
National Park Service-sponsored compromise to succeed.

By 1984, the proponents of paving the Boulder-Bullfrog Road had refined their position
with an engineering study completed by the St. George, Utah, firm of Creamer and

\textsuperscript{138} Garfield County's First Proposed Findings of Fact and Conclusions of Law, \textit{Sierra Club v. Hodel},
Civil No. 87C-0120-A, 14-16.

\textsuperscript{139} "Task Directive, General Management Plan," approved by Regional Director Lorraine
Mintzmyer, 4 June 1980, 7.

\textsuperscript{140} Capitol Reef 1982 General Management Plan, 28.

\textsuperscript{141} Salt Lake Tribune, 17 August 1983. According to a follow-up article in the (Salt Lake City)
Deseret News, 14-15 June 1984, this study was approved by the Senate but killed in joint conference with
the House.

\textsuperscript{142} Ibid.; see Box 8, Folder 6 for press clippings for 1983-84.
In an accompanying letter, signed by retiring Democratic Governor Scott Matheson and the five Republican members of the Utah congressional delegation, the paving of the Boulder-Bullfrog Road was promoted as an “essentially non-commercial scenic road that emphasized numerous scenic overlooks into southern Utah's spectacular Canyon Country.” The letter added, “Construction of the scenic road and ferry boat system [across Lake Powell] will open southern Utah to maximize the potential for an optimum scenic tourist experience.”

The Creamer and Noble report was a detailed examination of various alternatives for paving the Burr Trail. The most dramatic called for elimination of the switchbacks, which would be replaced by an enormous, sloped embankment down the Waterpocket Fold. The artist's rendering of this alternative must have only hardened the conservation community's determination to fight.

The $21 million alternative actually recommended by Creamer and Noble was much less destructive. Later to become the foundation of future Garfield County proposals, this plan called for paving the entire road along most of its existing alignment. Dramatic changes would be made only where the road crossed or followed wash beds, or traversed steep switchbacks such as those on the Burr Trail. As was to be expected, project opponents, led by the Sierra Club and National Parks and Conservation Association (NPCA), criticized not only the plan, but the report itself. NPCA Rocky Mountain Region Coordinator Terri Martin called the $75,000 Creamer and Noble study “a slick advertising job which glosses over the economic and environmental imprudence of paving the Burr Trail.” It was, she declared, “designed to sell the paving project, not to study it.”

One of the arguments environmental groups used in opposing the Boulder-Bullfrog Road upgrade was that tourist travel would be diverted from Capitol Reef's headquarters area in Wayne County. The Wayne County Chamber of Commerce also expressed concern that the tourism business would be diverted south. But in the end, Wayne County residents favored paving the entire road, in hopes of obtaining a few road improvements of their own.

Throughout 1985, the battle lines became entrenched. The Utah State Legislature approved a $600,000 initial appropriation to get road work underway, provided it was matched by federal highway funds. But the environmentalist leanings of Rep. Bruce F. Vento (D-Minnesota), chairman of the House Interior Subcommittee on National Parks, and Sidney Yates (D-Illinois), chairman of the House Interior Subcommittee on

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143 Creamer and Noble, Boulder-Bullfrog Scenic Road, funded by State of Utah and Five County Association of Governments, May 1984.
145 See references throughout “Creamer and Noble Report.”
147 Salt Lake Tribune, 3 August 1984.
Appropriations, made approval of federal matching funds unlikely. Despite public hearings in southern Utah that resoundingly favored paving the entire road, and despite the strong efforts of the Utah congressional delegation, environmental lobbyists successfully delayed any funding from Congress.

While this issue has commonly been regarded as an environmental/development dispute, it certainly did not help the developers' cause that the Utah delegation was Republican in a Democrat-controlled Congress. 148

Congress did, however, attach wording to the FY 1985 Interior Appropriations Bill requiring the National Park Service and Bureau of Land Management to complete an environmental assessment of the proposed changes to the Boulder-Bullfrog Road. 149 After investigations and initial public hearings, an initial assessment was released in May 1985. This assessment listed four alternatives:

1) paving the entire length of the Boulder-Bullfrog Road;
2) improving the road with gravel instead of pavement;
3) limiting improvements to make it passable to two-wheel drive vehicles except in the worst conditions; and
4) a no-action alternative, which would leave the road as it was. 150

But with so much national attention being directed toward the Burr Trail controversy, National Park Service Director William Penn Mott decided to postpone official release of the environmental assessment's evaluation to Congress until he personally visited the area. 151

Once Mott's personal inspection and consultations were completed, the director announced a compromise intended to help satisfy both sides and improve the National Park Service's stature in the area. His solution was to pave the most dangerous switchbacks, realign a section along the eastern boundary of Capitol Reef, and pave wash crossings. Mott also would put a new bridge across Bullfrog Creek within Glen Canyon National Recreation Area, gravel the rest of the road so it would become all-weather passable, and construct an interpretive center in Boulder. Finally, he proposed that the entire 66-mile road be declared a national "rural scenic road" to be administered by the National Park Service. 152

148 See 1984-85 newspaper articles, Box 8, Folder 6-7, Capitol Reef National Park Archives.
149 1993 Environmental Assessment, 5.
Both sides of the dispute, at least initially, were cautiously receptive to Mott’s proposal. While the paving proponents were disappointed, they saw the National Park Service plan as a constructive alternative. The National Parks and Conservation Association (NPCA) was willing to approve the plan so long as paving and realignment were kept to an absolute minimum.\textsuperscript{153}

At first it seemed that the compromise would succeed. Congress passed P.L. 95-290, which appropriated $8.1 million for a "Burr Trail National Scenic Road" but failed to include authorization language. The Utah delegation countered this move by passing a continuing resolution allowing the money to be carried over into the following year. Urged by environmental lobbyists, Rep. Yates made sure that there was no wording in this resolution that would enable the money to be spent without further congressional approval. In other words, the $8.1 million could not be authorized until full House and Senate hearings and debate occurred. Since it would be virtually impossible to gain approval from the environmentally friendly, Democrat-controlled House committees, the $8.1 million, and thus Mott's compromise proposal, were doomed.\textsuperscript{154}

Throughout 1986, Garfield County continued its attempts to get road improvement funding from both Congress and the Utah State Legislature. While supporters were initially hopeful, they soon realized that the initial Creamer and Noble plans would have to be scaled back in response to political and fiscal reality. Meanwhile, the National Park Service continued to support Director Mott's minimum improvement alternative.\textsuperscript{155}

By early 1987, Garfield County determined that it could not longer wait for the long-promised funding. It decided to use $2 million of Community Impact Board funds to pave the first 28 miles from Boulder to the western boundary of Capitol Reef National Park. A formal construction bid was accepted, but before construction could begin, environmental groups led by NPCA, Sierra Club, and Southern Utah Wilderness Alliance filed suit in federal court to stop any improvements to the Boulder-Bullfrog Road.\textsuperscript{156}

After two years of court battles in district and appellate courts and in the Interior Board of Land Appeals, Garfield County gained an adjudicated right-of-way, essentially winning the right to improve the Boulder-Bullfrog Road. The county soon initiated its plans to upgrade, realign in places, and put a double chipseal coating on two sections of the Boulder Bullfrog Road. By spring of 1991, the road was paved from Boulder to the western park boundary and from Eggnog Junction south to the boundary of Glen Canyon National Recreation Area.


\textsuperscript{154} \textit{Deseret News}, 14 December 1985. According to the 1993 environmental assessment, the money was later reallocated to NPS units in Utah for other projects by the FY 1993 Interior Appropriations Bill.

\textsuperscript{155} 1986 and 1987 Annual Superintendent's Reports, File A2621, Capitol Reef Superintendent’s Files.

**State Section 16**

Throughout the complex trial and appeals process, the National Park Service remained passively hopeful that a compromise could be worked out to allow for minimal improvements. Then, in December 1987, a land swap between the State of Utah and Garfield County gave the county title to T34S R8E SI6, a state school trust section initially set aside for the state to help fund public schools. This particular section included the Burr Trail switchbacks.\(^{157}\)

The deal, according to Garfield County Commissioner Tom Hatch, was conceived in mid-1987 as leverage in the effort to release the long-promised money from Congress. At first, he considered the land-swap possibility "almost as a joke." "Then," he said, "we began to take a serious look at our 'joke' and give it a try."\(^{158}\) To the National Park Service and conservationists, this land-swap was no joke. In August 1987, Acting Regional Director Homer L. Rouse formally protested the initial application by Garfield County to assume control over the state section within Capitol Reef National Park. Utah Governor Norman H. Bangerter responded that he appreciated the National Park Service's concern that the county may adversely develop the land. However, the governor maintained that the state's responsibility was to obtain revenues from the state sections, no matter what the "opportunity costs" may be.\(^{159}\)

The NPCA took immediate formal action to prevent the state section transfer by successfully filing a "petition for review" with the Utah State Supreme Court. NPCA argued that, regardless of the state's desire for school section revenue, there must be "consideration to federal and state law assuring the protection of the unique treasures protected in our national parks."\(^{160}\)

During 1993, with the Utah Supreme Court injunction still in place, negotiations were undertaken by the National Park Service to transfer Section 16 to federal ownership. After negotiations between Superintendent Charles V. Lundy, NPS Utah Coordinator Martin Ott, and representatives from the state, Garfield County, and NPCA, the following scenario was tentatively approved:

1) Garfield Country would willingly sell or transfer Section 16 to the National Park Service.

2) In return, NPCA would withdraw its objections in the Utah Supreme Court.

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\(^{157}\) See 1993 Environmental Assessment, 5-8.

\(^{158}\) Salt Lake Tribune, 5 January 1988.

\(^{159}\) Bangerter to Rouse, 9 October 1987, L1425, Capitol Reef Historic Superintendent's Files.

3) This sale or transfer would not serve as a precedent for the statewide transfer of school sections within National Park Service lands then under negotiations.\footnote{161}

As of the beginning of 1998, the status of Section 16 has not been resolved. It is likely that a resolution to this issue will not be possible until an agreement is reached to transfer the rest of the school sections throughout Utah's National Park Service lands, and the Burr Trail dispute is resolved. Meanwhile, the Utah State Supreme Court injunction is still in effect, thus preventing unilateral development of the Burr Trail switchbacks beyond regular road maintenance.\footnote{162}


Once Garfield County had finished improving the sections to the west and east of Capitol Reef National Park, county officials notified the National Park Service that they were now interested in upgrading the sections of the Boulder-Bullfrog Road within Capitol Reef and Glen Canyon National Recreation Area.\footnote{163} Per the requirements of the National Environmental Policy Act (NEPA), the National Park Service, in cooperation with the Bureau of the Land Management, began researching and writing an environmental assessment for the entire 66-mile road. The purpose of this environmental assessment, released in March 1993, was to evaluate the various alternatives based on Garfield County's adjudicated right-of-way, and the impacts the alternatives would have on the natural, cultural, and socioeconomic resources of the region.\footnote{164}

Garfield County's proposal had not changed much since the 1984 Creamer-Noble report, except for some scaled-down options based on the reality that federal money would be difficult to obtain. Garfield County desired a 28-foot wide, paved road that would allow varying speeds from 20 to 40 miles per hour. In the Capitol Reef section, the plan called for widening and improving the existing road bed, graveling the entire length until funds could be approved for its eventual paving. Either one or two bridges would be built over Muley Twist Wash at the top of the Burr Trail switchbacks. The switchbacks themselves would be excavated and widened to accommodate all-weather travel for two passing cars. To the east of the Burr Trail-Notom Road intersection, a 6,000-foot section that Director Mott had agreed to realign in 1985 would either be improved or redirected onto firmer ground.\footnote{165}

\footnote{161} Charles V. Lundy, Capitol Reef Superintendent, telephone interview with Bradford Frye, 29 July 1994, tape on file in Administrative History files and notes, Capitol Reef Unprocessed Archives.

\footnote{162} Ibid.; 1993 Environmental Assessment, 8.

\footnote{163} Thomas V. Hatch, Chairman Garfield County Commission, to Superintendent Charles V. Lundy, 28 January 1991, File L3027-Burr Trail, Capitol Reef Superintendent's Files. Lundy, recently transferred from Grand Canyon, had been at Capitol Reef for just three weeks when this letter arrived.

\footnote{164} 1993 Environmental Assessment, 1.

\footnote{165} Ibid., 25-31.

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The National Park Service, on the other hand, advocated a limited-improvement proposal designed by Superintendent Lundy. Lundy's plan was in several ways similar to Mott's 1985 plan. The superintendent called for a 26- to 28-foot gravel road with the minimum amount of culverts, excavation, and drainage work required to meet the criteria for a safe, all-weather road. The two remaining alternatives in the 1993 environmental assessment called for either more restrictions on improvements or maintaining the status quo.\textsuperscript{166}

Throughout 1993 and 1994, Lundy and Ott continued to meet with Garfield County and environmental community representatives in efforts to get this compromise proposal accepted by all sides. Lundy explained, "These dialogs have endeavored to find a compromise position that doesn't necessarily meet the objectives of Garfield County or the original objective of having a paved road, but does speak to retaining the more primitive qualities within Capitol Reef and allowing for only minimal road improvements to satisfy an 'all weather' criterion."\textsuperscript{167}

In 1994, the superintendent believed that a compromise that would settle the Burr Trail controversy was closer to resolution than ever before, but he acknowledged that that a great deal of work was yet to be done.\textsuperscript{168} Lundy's cautious attitude was well justified, for just 18 months later another conflict launched the Burr Trail back into the courts and the headlines.

**New Litigation: 1996**

In February of 1995, following development of an environmental assessment that evaluated four road improvement alternatives, a Finding of No Significant Impact (FONSI) was signed by the park's regional director and the Utah state director of the Bureau of Land Management. In December 1995, Garfield County road crews began making limited improvements to the Burr Trail road, in close consultation with the National Park Service. Despite frequent meetings of Capitol Reef's Roads and Trails Foreman Bob Cox and Garfield County Engineer Brian Bremner, several deviations from the provisions outlined in the FONSI occurred. These issues were resolved and work progressed in what the superintendent considered to be an acceptable manner. On Feb. 3, 1996, however, Cox discovered that Garfield County had removed a sizable portion of a hillside and widened most of a one-mile stretch of road inside the park's boundary, east of The Post. The work, ostensibly to increase visibility on a curve, was not authorized by the National Park Service. Superintendent Lundy immediately halted work at the project after notifying Garfield County that its actions had violated the FONSI agreement. National Park Service officials at the regional and national levels were quickly brought into the fray, with the Department of Justice filing suit against the county in the Federal District of Utah in May 1996. At one point in the discovery phase of the proceedings,\textsuperscript{166}

\textsuperscript{166} Ibid., 32-34.
\textsuperscript{167} Lundy, telephone interview with Bradford Frye, 29 July 1994.
\textsuperscript{168} Ibid.
Judge Bruce Jenkins toured the Burr Trail road along with National Park Service and Garfield County representatives, to view road conditions and alterations for himself. As of February 1998, lawyers for both sides are still preparing their cases. The pre-trial hearing is set for May 11, 1998. The disposition of the case could have important implications for other county and state road claims made under Revised Statute 2477, and for the authority of the federal government to regulate such claims.

Revised Statute 2477

Revised Statute 2477, which simply states, "The right-of-way for the construction of highways over public lands, not reserved for public uses, is hereby granted," was passed by Congress as Section 8 of the Mining Act of 1866. R.S. 2477 was passed in the same era as the Homestead Act and magnanimous railroad grants, all federal inducements to open Western settlement. 169

Broad interpretations of R.S. 2477 have been promoted by state governments in the past in order to claim unreserved public lands for development purposes. 170 Then, beginning in the 1960s, the growing environmental movement spurred passage of laws, such as the 1964 Wilderness Act, that limited road building on the Western public domain. In an attempt to regulate Bureau of Land Management Lands more closely, the Federal Policy and Management Act (FLPMA) was passed on October 21, 1976. Section 509(a) and 706(a) of FLPMA superseded R.S. 2477, but failed to terminate valid existing rights-of-way. 171

FLPMA required that all new roads built after Oct. 21, 1976 be extensively studied and reviewed before a right-of-way is permitted. Thus, the chances of new road construction in sensitive areas would be slim. On the other hand, any existing rights-of-way prior to 1976 were still valid. Thus, the focus of road-building advocates, especially in Alaska and Utah, shifted from building new roads to validating and improving existing routes. The ambiguous language of R.S. 2477 made it difficult for federal land managers to deny any seemingly valid claim. In frustration, environmentalists turned to the courts to stop these new threats to the wilderness movement.

The focus of this R.S. 2477 debate centered on the interpretation of what constitutes "construction of highways over public lands." The introductory comments to the 1994 Interior Department proposed R.S.2477 rule changes state:

This controversy stems in large part from the lack of specificity in the statutory language, which has helped create unrealistic expectations in interested local and State governments, environmental and wilderness


170 Ibid., 8-10.

171 Ibid., 1.
protection groups and other Federal land users. In addition, the language of R.S. 2477 causes uncertainty and potential conflict for Federal land managers charged with managing and protecting Federal lands according to current environmental and land use laws.\textsuperscript{172}

A classic example of the R.S. 2477 controversy is the Burr Trail dispute, which has been aired in district court, Tenth Circuit Court of Appeals, and Interior Board of Land Appeals (IBLA) proceedings. Garfield County argues that the continual use of a road west from Boulder through Long Canyon and its regular maintenance for various public uses since the 1940s gives the county legal right to improve the road as it sees fit.\textsuperscript{173} The environmental groups who filed suit to stop the road improvements claim that the route was not a through, commonly used road until the early 1950s. They maintain that existing state law therefore did not recognize the road as a valid public highway before the Bureau of Land Management began regulating the Circle Cliffs region as potential wilderness in the mid-1960s. In other words, according to the environmental lawyers, the region the road traversed was managed as reserved public lands before state law recognized the road as a public highway.\textsuperscript{174}

The district court and Tenth Circuit Court of Appeals have concurred with Garfield County's claim to a R.S. 2477 right-of-way. Their position is based largely on testimony by local residents who had used the Long Canyon route since the turn of the century, and also on the fact the county had maintained the route into the Circle Cliffs since the 1940s.\textsuperscript{175} The entire 66-mile route was built and maintained prior to the expansion of Capitol Reef National Monument and the creation of Glen Canyon National Recreation Area. The Intermountain Regional Solicitor interpreted these findings as a valid, adjudicated right-of-way for Garfield Country for the entire road from Boulder to Bullfrog.\textsuperscript{176}

Yet, while the courts granted Garfield County a R.S. 2477 right-of-way to the road, they also concluded that federal land managers had the right to determine what was reasonable and necessary maintenance and construction, specifically in regard to Wilderness Study Areas. Thus, an important qualifier to the right-of-way ruling is that, according to the departmental solicitor, the National Park Service has the right to "apply a standard of

\begin{footnotes}
\begin{itemize}
\item[172] Ibid.
\item[173] Garfield County First Proposed Finding of Fact, Sierra v. Hodel.
\item[175] Summary Judgment, Sierra v. Hodel; also see 1993 Environmental Assessment, Boulder-to-Bullfrog (Burr Trail)," March 1993, 8-9.
\item[176] 1993 Environmental Assessment, 8; also see Intermountain Solicitor to Regional Director, 17 June 1988, L3027-Burr Trail, Capitol Reef Superintendent's Files. It should be noted that the solicitor's interpretation of the 10th Circuit Court of Appeals ruling is disputed by environmental organizations, who maintain that the right-of-way was granted only for Section #1 - from Boulder to the western park boundary.
\end{itemize}
\end{footnotes}
protecting park values which could conceivably result in a stricter standard than for unreserved lands.”

The Burr Trail court case has proven important for future R.S. 2477 claims. The courts demonstrated that they were willing to grant rights-of-way based on evidence of use and continual maintenance, which has encouraged other R.S. 2477 claims in the Waterpocket Fold region. On the other hand, the courts' decisions seemed to guarantee federal land managers an active role in determining what kind of improvements would be made.\textsuperscript{178}

In December 1988, Secretary of Interior Donald P. Hodel approved some preliminary R.S. 2477 guidelines. These guidelines instructed BLM and National Park Service managers to accept R.S. 2477 claims once three criteria were met. The criteria are:

1) The lands involved must have been public lands, not reserved for public uses, at the time the claim was filed.
2) Some form of construction of the highway must have occurred.
3) The highway so constructed must be considered a public highway.\textsuperscript{179}

Yet, even with two pages of accompanying definitions, it became clear that these guidelines were still open to broad interpretation. They also left uncertain the exact procedures by which claims should be handled.\textsuperscript{180}

A good example of the continuing problem with R.S. 2477 claims can be found in the recent attempt of the Bureau of Land Management to clarify claims in the Henry Mountain Resource Area. As part of the "pre-planning process" for a new resource management plan, the BLM invited Wayne, Garfield, and Kane Counties to file for any potential R.S. 2477 claims within the resource area, which abuts Capitol Reef National Park along its entire eastern border. A Southern Utah Wilderness Alliance newsletter asserts, "The results of this invitation have been staggering. Together, Wayne and Garfield Counties have asserted rights to 327 different roads."\textsuperscript{181}

Given the growing polarization between the multiple-use and minimum-use advocates throughout the West, the heavy reliance on expensive, time-consuming court battles, and the current confusing guidelines and regulations, federal land managers desperately need more specific direction regarding R.S. 2477 claims.

\textsuperscript{177} Solicitor to Regional Director, 17 June 1988.
\textsuperscript{178} 1994 Proposed Rule Change, 7-8.
\textsuperscript{180} 1994 Proposed Rule Change, 4-5.
**1994 Proposed Rule Changes**

As directed by Congress in 1992, the Department of Interior investigated the history and current status of R.S. 2477 claims, held public hearings in eight Western cities, and received over 5,000 pages of public comment -- all in an attempt to "promulgate regulations to address these ongoing concerns." The proposed regulations, as of September 1994, are still subject to public review and change. Their purpose is to "create a process by which R.S. 2477 right-of-way claims can be systematically filed and reviewed to determine whether the elements of the R.S. 2477 statute were met." The regulations would also "establish specific filing requirements and a specific process to facilitate efficient processing of claims." The proposed rules are an attempt to deal systematically with claims filed under R.S. 2477 prior to its repeal in 1976. The proposed rule changes would accomplish four needed improvements. These are:

1) to provide more specific, applicable definitions limiting R.S. 2477 claims to valid vehicle routes intended for public use;
2) to attempt to resolve differences between state and federal laws;
3) to stipulate that the burden of proof for any claim falls on those applying for the claim, rather than on the federal land manager; and
4) to provide a structured claim procedure and appeals process intended to avoid long and costly court battles.

These rules will most likely be changed during the ongoing review process. The degree of compromise will determine the effectiveness of the final regulations.

**Power And Telephone Utilities**

Throughout the early years of Capitol Reef National Monument, there was little concern over utility construction and rights-of-way. Because the region was rugged and sparsely populated, utilities were seldom constructed. The two significant periods of utility development during the monument era occurred in 1947-48, when the first electric lines were brought into Fruita, and 1959-62, when the power lines were extended through the Fremont River canyon and telephone service finally came to Capitol Reef. From the

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183 Ibid., 11.
184 Ibid., 8-24.
185 This section will address only power and telephone lines, as they require rights-of-way. Water system utilities are briefly discussed in Chapter 2, Water Rights.
1970s to the early 1990s, action has been limited to attempts to upgrade the current system and prepare for future utility needs.

**Early Telephone And Electric Service**

When Capitol Reef National Monument was created on Aug. 2, 1937, there was no power to or through monument lands. The single-wire telephone line through Capitol Gorge, strung by ranchers from Notom and Caineville in the 1910s, was in poor condition.\(^{186}\) By 1943, the line was reported to be abandoned and in need of removal.\(^{187}\) This line was eventually taken out, leaving only the metal support pipes through the narrower sections of Capitol Gorge. These are still visible, projecting from the cliff walls.

Shortly after the end of World War II, the residents of Fruita petitioned to have a power line brought down from Torrey as part of a rural electrification project.\(^{188}\) In September 1947, Garkane Power Association, Inc., the regional rural electric cooperative, formally applied for a permit to stake and build the line east from Torrey to Fruita.\(^{189}\) The line was to be approximately nine miles long, and would cost Fruita residents $6,000. Since many of Fruita’s residents lived elsewhere in the winter, they felt they should not bear the entire costs themselves, and asked if the National Park Service could "assume the proportionate share of the load." It is unknown exactly how much of the final bill was paid by the National Park Service.\(^{190}\)

Throughout 1947 and early 1948, Garkane surveyed and installed power poles along a line of its own choosing, since Zion National Park Superintendent Charles J. Smith could not spare any personnel to monitor the work. (Remember that Charles Kelly was still a volunteer custodian at the time.)\(^{191}\) Yet, Garkane apparently made every effort to keep the poles and line out of view from Utah 24 between Torrey and Fruita. After a formal inspection of the completed line in May 1948, Superintendent Smith complemented

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\(^{186}\) "Development Outline for Capitol Reef National Monument," 1 March 1938, File CR-600-01, Accession 79-60A-354, Container 63180, Box 2, RG 79, 2. According to this document, the line existed "from Torrey through Fruita and Capitol Gorge to Notom, Caineville and Hanksville." According to Anne Snow’s Rainbow Views, the line was attached to the Torrey-Grover line sometime during the 1910s. (4th ed., 89.)


\(^{188}\) Custodian Charles Kelly to Zion Superintendent Charles Smith, 25 August 1945, File CR-800-02, Box 3, Ibid. The unsigned petition was passed on to Superintendent Smith in July 1946.

\(^{189}\) Chester A. Thomas, Assistant Superintendent, to Zion Superintendent, 24 September 1947, File CR-660-01, Ibid.

\(^{190}\) Kelly to Superintendent Smith, (?) August 1946, Ibid.

\(^{191}\) Smith to Lester Spencer, Manager, Garkane, 26 November 1947, Ibid.
Garkane for the "efforts [it] made to locate the line so as to be least objectionable to tourists, artists, and photographers." 192

A formal, 20-year special-use permit for a 20-foot right-of-way from the western monument boundary to Fruita was signed on June 1, 1948, and electricity was soon flowing into the monument. 193 Telephone service, however, was still 12 miles away in Torrey, and the monument had no radio.

**Utilities Through The Monument: 1959-1960**

On Feb. 2, 1959, Garkane Power Association formally applied for a right-of-way for a 69-kilovolt transmission line through the Fremont River canyon along the same route as the proposed new highway. Zion Superintendent Paul R. Franke, who still supervised Capitol Reef operations, was initially concerned that the power line would "present a glaring intrusion upon the natural scenery and landscape, unless it could be well hidden or removed from the proposed route of the canyon road." 194

Upon approval from the Washington office, however, Franke and Superintendent William T. Krueger met with Garkane representatives in Fruita in May 1959 to discuss the proposed route. They agreed that copper wire and vertical, three-phase construction would be employed. The project would be engineered and supervised by Intermountain Engineers, a Salt Lake City contracting firm that had recently built a power line through Grand Teton National Park. All parties agreed that the line should be constructed with primary consideration toward scenic preservation. 195

Building the power line before the new highway was constructed meant there were bound to be conflicts between the two rights-of-way. Since it was easier to move a pole than the road, Garkane agreed, as part of its special-use permit, that "line changes and relocations due to interference with construction or special scenic views, must be at the Association’s expense." 196

On Sept. 31, 1959, a 20-year special-use permit was granted to Garkane Power Association. The permit allowed for a 10-foot utility right-of-way (five feet on either side of the center line) for 4.7 miles through the Fremont River canyon, and 1.2 miles of rephasing and relocating the existing line. 197 When a build-up of ice along the Fremont

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192 Smith to Spencer, 12 May 1948, Ibid.
193 Smith to Spencer, 10 June 1948, Ibid.; Special-Use Permit # I-45np-44, File L3031-Garkane-70s, Capitol Reef Superintendent’s Files.
194 Franke to Superintendent William T. Krueger, File L3031-Garkane 70s, Capitol Reef Superintendent’s Files.
195 Franke to Reed Burr, Manager, Garkane, 22 April 1959 and Franke to Regional Director, 29 May 1959, Ibid.
196 Franke to Burr, 22 April 1959.
197 Special-Use Permit Capitol Reef 2-59, File L3031-Garkane 70s.
River halted construction in December, all but four poles were in place along the new right-of-way, and the existing line west of Fruita had already been upgraded. The poles, some of which were placed in precarious positions more than 100 feet above the river, were all carried and set by hand.

The following February, Superintendent Krueger asked that some minor changes be made in order to protect scenic values. By March 1960, Krueger reported that construction of the 69-kv line was completed and the only work left for Garkane was the removal of "all evidence of damage to the terrain." Krueger noted, "The work was done by the Power Association and not by contract. Considering the difficulty of the job, weather conditions and steep terrain over which the line was constructed we consider the work an excellent accomplishment."

When the road was built through the Fremont River canyon in 1961-62, only one power pole needed to be relocated.

Telephone Line: 1962

On March 2, 1962, a contract was signed with Mountain States Telephone and Telegraphic Company to provide the first telephone service to the monument. The installation of the line was completed by the end of the month, and phones were operational by early May.

Unfortunately, the author has not found specific documentation regarding this project. This is particularly frustrating, considering the telephone line, and thus its right-of-way, was located south of Garkane's power line. Not known is why Mountain States was allowed to construct its line between the south side of Sulphur Creek and north of the Fremont River (thus approaching Fruita over the top of Johnson's Mesa and down Behunin draw), why the line was not strung under the existing power line, and what specific special-use permit and right-of-way provisions were agreed upon. This telephone line was later abandoned when the telephone line was buried through to Fruita.

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200 Monthly Report, February 1960, Box 4, Folder 5, Capitol Reef National Park Archives.
201 Krueger to Regional Director, 4 April 1960, File L3031.
203 Ibid., March 1962.
204 See File D5027, Accession 79-65A-580, Container SB202684, Box 1, RG 79.

Burr Trail Attempt

In 1963, Garkane Power Association petitioned the Bureau of Land Management to build a 69-kv transmission line across the Waterpocket Fold near the Burr Trail switchbacks, and a electric substation on state Section 16. This line was to serve the anticipated developments on the northern end of Lake Powell. The Bureau's Utah State director rejected this request on July 6, 1965, on the grounds that the project would be "incompatible with the significant scenic values of the area" and because alternative routes were available. The BLM appeals process upheld the earlier decision, and Garkane was prevented from gaining another utility right-of-way across the Waterpocket Fold. 205

Pleasant Creek Power Line

The 7200-volt power line and accompanying telephone line strung along Pleasant Creek from the western park boundary to Sleeping Rainbow Ranch was apparently constructed by Lurton Knee sometime during the 1960s. On Oct. 16, 1967, Knee was granted a renewable utility right-of-way by the Bureau of Land Management. It was to cost $25 dollars for each five-year permit. 206

Legislative Constraints: 1971

In recognition of the administrative barrier that the new 75-mile-long national park would create for largely undeveloped southern Utah, the enabling legislation for Capitol Reef National Park allowed for future utility easements and rights-of-way. It reserved the right, however, of the Interior Department to establish where those utility corridors would be located. Specifically, Section 5(b) of P.L. 92-207 says, "The Secretary shall grant easements and rights-of-way on a non-discriminatory basis upon, over, under, across, or along any component of the park area unless he finds that the route of such easements and rights-of-way would have significant adverse effects on the administration of the park." 207

The National Park Service had consistently opposed the inclusion of this section into the park's enabling legislation. The agency argued that existing law allowed for utility rights-of-way, that the wording of the section was too vague, and that it did not allow for "adequate safeguards to protect the natural values of the area." Yet, since the department

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205 Decision regarding Garkane Power Association Right-of-Way, 4 October 1964; Glen Willardson, General Manager, Garkane, to Phillip R. Iverson, National Park Service State Director, 10 September 1972, File L3031-Garkane 70s, Capitol Reef Superintendent's Files.

206 Grant # U-2902, 16 October 1967, File L3031-Knee, Capitol Reef Superintendent's Files.

wanted the legislation to pass, officials resigned themselves to interpreting "significant adverse effect" as broadly as possible.\textsuperscript{208}

\textbf{Oak Creek Utility Corridor: 1969-79}

In anticipation of a congressional requirement for future rights-of-way, there was a field investigation of possible utility corridors by Capitol Reef staff in September 1969. Based upon preliminary findings, Superintendent William F. (Franklin) Wallace concluded that Oak Creek was the best alternative for future power line construction. Wallace explained, "The canyon already has a livestock driveway, an active mining prospect, and an irrigation dam and canal. The canyon is also less scenic than others nearby."\textsuperscript{209}

The superintendent also advised that a route along the Burr Trail should "definitely be avoided" and that underground lines would be impractical.\textsuperscript{210} Based on Wallace's recommendation, Oak Creek became the accepted utility corridor in all park planning documents throughout the rest of the 1970s.

\textbf{Proposed Garkane Upgrade: 1974-76}

In early 1974, Garkane Power Association notified Superintendent Wallace that it wished to replace the existing 40-foot power line poles with 55-foot poles from Fruita west to the park boundary. Wallace was willing to accept this upgrade, seeing this as an ideal opportunity to move the power line away from the highway to less visible canyons near Sulphur Creek. He also realized this would be a good opportunity to combine the utility and telephone lines along the same poles.\textsuperscript{211}

Unfortunately, Garkane had other goals in mind. The Intermountain Power Plant north of Caineville was then in the initial planning stages, and Garkane's real purpose was to begin dramatic upgrades to their lines in anticipation of these new developments.\textsuperscript{212}

At an interagency meeting and field trip in August 1974, representatives from the National Park Service, Bureau of Land Management, U.S. Forest Service, and Garkane Power Association discussed various options for getting a new 138-kv line over the Waterpocket Fold, as allowed under the enabling legislation. Setting aside the previously designated

\textsuperscript{208} Nathaniel P. Reed, Assistant Secretary of Interior, to George P. Shultz, Director, Office of Management and Budget, 14 December 1971, Box 2, Folder 1, Capitol Reef National Park Archives; also see Reed to Representative Wayne N. Aspinall, Chairman, Committee on Interior and Insular Affairs, 4 June 1971, Ibid.

\textsuperscript{209} Wallace to NPS Director, 24 September 1969, L3031-Garkane 70s, Capitol Reef Superintendent's Files.

\textsuperscript{210} Ibid. There is no evidence that an archeological survey was completed as part of this evaluation.

\textsuperscript{211} Wallace to Regional Director, 5 March 1974, File L3031-Garkane 70s.

\textsuperscript{212} William Glover for Donald A. Purse, Team Manager, Denver Service Center to Regional Director, 22 January 1975, Ibid.
Oak Creek corridor, the various officials looked at three alternatives around the Burr Trail. Also considered were other possible routes in the vicinity of Bitter Creek Divide, Red Canyon, and Dry Bench. Garkane preferred a route in the vicinity of Dry Bench. The parties agreed that once a single corridor was chosen, all other routes would be abandoned and incorporated into Capitol Reef's designated wilderness. This agreement laid the foundation for future park managers to stipulate that there would be only one utility corridor in addition to the extant Fremont River canyon right-of-way.

Meanwhile, during 1975, proposed routes over the Waterpocket Fold for a 500-kv transmission line corridor were also investigated. These lines would carry power from either the proposed Kaiparowits or IPP coal-burning power plants. While this line was never built, it is interesting to note that all routes through Capitol Reef National Park were rejected either because of confining space (as in Oak Creek) or because the land was of unique scenic, "untrammeled" quality.

In January 1976, Superintendent Wallace notified Garkane that any plans to build new utility lines through the park would have to be delayed until mutually acceptable routes were identified. This resulted in an apparent compromise route from Torrey to Fruita through wash beds further south of the current right-of-way. A brief environmental assessment and archeological survey for the proposed new route and upgrade were completed by area Bureau of Land Management staff in October 1976. The BLM recommended that the line be built, and a 10-year special-use permit was granted by Wallace to Garkane for its construction. When the proposed Intermountain Power Project (IPP) site was relocated, however, 500-kv lines was no longer needed.

Then, in the late 1970s, with the hope of resurrecting a smaller Intermountain Power Project, Garkane once again applied for permission to construct new transmission lines across the park. This time it hoped to utilize the designated Oak Creek canyon utility corridor. Superintendent Derek O. Hambly was extremely reluctant, for two reasons. First, he did not want new utility rights-of-way until a definite need was established. Second, Hambly questioned Oak Creek as the most preferable route for all future utility needs. Hambly proposed that a team be brought in from the regional office and Denver Service Center to investigate potential utility corridors.

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213 Summary of Interagency Meeting, 30 August 1974, Ibid.
214 James L. Isenogle, Utah State Coordinator, to Regional Director, 13 August 1975, File L24-Encroachments, Capitol Reef Historic Superintendent's Files.
215 Wallace to Willardson, General Manager, Garkane, 14 January 1976, File L3031-Garkane 70s, Capitol Reef Superintendent's Files.
216 Summary of information found in John F. Chapman, Associate Regional Director, to Deputy Regional Director, 7 July 1986, File L3031.
217 Hambly to Regional Director, 30 July 1979, File L3031.
**North Coleman Canyon (Dry Bench) Utility Corridor: 1980-1994**

In July 1980, Regional Archeologist Adrienne Anderson, Robert Dunkley from the regional office, and Romeo Magalong from the Denver Service Center spent four days of field investigation in Capitol Reef. After examining the Oak Creek route, Anderson determined that extensive archeological deposits made future utility construction undesirable, even though it might be the cheapest route in which to build. The other two proposed corridors, either north or south of the Coleman Canyons, would take a power line directly over the top of the Waterpocket Fold. Of these two routes, a utility corridor up the benches north of North Coleman Canyon to Dry Bench and then on into the Dixie National Forest was seen as the least destructive alternative. Deputy Regional Director James B. Thompson explained, “This route has minimum impact to known cultural and natural resources, has relatively low visitor use potential and visibility, and is feasible from an engineering standpoint.”

The North Coleman Canyon (Dry Bench) route became the accepted alternative utility corridor in the 1982 general management plan.

**Proposed Garkane Upgrades: 1986-1994**

In June 1986, Garkane informally notified Superintendent Robert C. Reynolds that it planned finally to reroute and upgrade the power lines from Torrey to Fruita. Faced with the end of its 1976 special-use permit, Garkane expressed a new willingness to use the alternative route proposed by Superintendent Wallace back in 1978.

This route would follow the Fremont River, as proposed in the 1976 environmental assessment, before connecting with the existing 69-kv line east of Fruita. The significant change in this Garkane proposal was the association’s desire for a much larger 138-kv line. Initially, park managers agreed to this plan, provided the line would not cross through Fruita. The National Parks and Conservation Association, however, learned of Garkane's proposal and challenged the need for a high voltage line.

Sometime in 1986, the National Park Service, Garkane, and the NPCA worked out a compromise. Garkane would apply for only a 34.5-kv transmission line, and the line would be moved out of the Fremont River gorge. NPCA also requested that the line be buried through the park. Garkane was willing to do this as well, provided public funding of such an expensive project could be procured.

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218 Thompson to Hambly, 19 September 1980, Box 3, Folder 1, Capitol Reef National Park Archives.


220 John L. Chapman, Associate Regional Director, to Deputy Regional Director, 7 July 1986, L3031-Garkane 80s; 1986 Annual Superintendent's Report, File A2621, Capitol Reef Superintendent’s Files.

Members of the Utah congressional delegation attempted to secure this funding by including a rider on the FY 1988 Senate Interior Appropriations Bill that would enable Garkane to upgrade the utility lines to 34.5-kv. In response, the National Park Service offered to issue a new, five-year right-of-way permit (the old permit issued in 1949 and renewed in 1976 had just expired) that would allow for "maintenance and rehabilitation of the existing 12-kv transmission line in the present alignment." This permit was eventually issued by recently appointed Superintendent Martin C. Ott in the fall of 1987.\footnote{Department of the Interior, FY 1988 Interior Appropriations Bill, Effect of House and Senate Action, File L3031-Garkane 80s.}

Ott also began working with Garkane on the plan to bury the entire seven miles of the power line from the western park boundary through Fruita.\footnote{1987 Annual Superintendent's Report, File A2621.} When funding for burying the entire line could not be obtained, the focus shifted to merely upgrading the existing line, adding new line east of Fruita, and exploring possible funding for burying the line only through Fruita.\footnote{Superintendent Charles V. Lundy to Associate Regional Director, 9 July 1992, Ibid; 1990 and 1992 Superintendent’s Annual Reports, File A2621, Capitol Reef Superintendent’s Files.}

By the end of 1993, tentative funding was approved to bury the 34.5-kv transmission line through the Fruita Rural Historic District. A new right-of-way permit for Garkane is pending.\footnote{Homer L. Rouse, Associate Regional Director, to Superintendent Lundy, 1 August 1992; Review of EA for Construction of Power Line, File L3031-Garkane 90s; 1992 Superintendent’s Annual Narrative Report, File A2621, Capitol Reef Superintendent’s Files.}

This long-standing right-of-way stalemate seems to be moving forward again, to the benefit of both the National Park Service and Garkane Power Association. Given the history of alternative routes and upgrade possibilities, however, it is likely that the issue of utilities, as well as road rights-of-way, through Capitol Reef National Park will always be hanging over the heads of park managers.
Figure 46. Early South District roads and trails.
Figure 47. 1949 Master Plan, roads and trails.
Figure 48. Fruita inholdings and proposed highway route.
Figure 49. 1962 Master Plan, monument roads and trails.
Figure 50. Capitol Reef trails, 1994.

CAPITOL REEF TRAILS

NOTE: Grand Wash & Capitol Gorge are maintained dirt roads. Both areas are subject to flash floods. Check weather conditions at the Visitor Center before entering.
Figure 51. Proposed Wilderness, 1974.
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CHAPTER 17

STATE LANDS AND POST-PARK PRIVATE LANDS

The National Park Service has never controlled all the land within Capitol Reef National Monument and Park. Due to the lack of authority over isolated tracts of state and private lands, the National Park Service has been forced to play a waiting game while hoping that no bit of non-federal land will be developed or otherwise impacted before it can be acquired.

Since the earliest investigations and boundary proposals, the agency has recognized that its missions and policies would in many ways be incompatible with those of non-federal inholders. Concerns over the private inholdings in Fruita, which dominated the attention of the monument's first two superintendents, Charles Kelly and William Krueger, have been examined elsewhere in this administrative history. The matter of state inholdings has been only briefly addressed. During the monument's early years, the possibility that a lease (such as the mining lease issued by Utah to Clair Bird) on state lands would compromise monument management was a consistent, albeit peripheral, issue.

Beginning in the 1960s, state lands leased for mineral, grazing, or tourist development would cause monument and park managers one headache after another. At the end of the decade, Capitol Reef's expansion brought in additional concerns over potential mineral leases in the southern end of the park. The development potential of the remaining private inholdings also posed a problem.

The various inholders often held out for more money in return for their land, either because they thought they could leverage a better price for property the National Park Service desperately wanted to acquire, or because they genuinely believed their land was worth more than the price offered by the government. These demands were (usually) fairly easy to satisfy, once the slow wheels of Congress released the necessary funds.

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1 The author thanks Richard A. Young, Rocky Mountain Region Chief of Land Resources, for his help in filling in some of the gaps in these complicated land transactions and for correcting information from earlier drafts.

Finally, by the end of the 1970s the troublesome leases and lands belonging to Clair Bird, Lurton Knee, and Wonderland Stages were brought under National Park Service control. As of the mid-1990s, however, there are still over 19,000 acres of state lands and a small plot of private land in Fruita that could cause problems for park management. Negotiations begun in the 1980s led to 1993 legislation that will finally allow for the exchange and/or purchase of the state school sections for other, less sensitive federal lands. A resolution to the state lands issue seems close at hand.

This chapter will focus on the reasons why state lands are included within Capitol Reef and a brief history of conflict and attempted resolution involving those sections. Since the history of the Fruita inholdings has been discussed elsewhere, this chapter will examine only the few private land concerns existing after the national park was created in 1971.

**History Of State School Trust Lands**

In an attempt to better organize and profit from settlement during the early growing pains of the United States, a provision of the Land Ordinance of 1785 required a grid survey of all unsettled federal territory. As new territory was obtained west of the Mississippi, the grid survey pattern was superimposed regardless of the nature of the terrain. Each survey divided the land into 6x6-mile townships. The townships were then gridded into 36 one-mile (640 acre) squares, or sections. The Ordinance of 1785 also set aside section 16 in each township to generate income for public schools. In 1848, Sections 36 were also set aside to help fund the individual state's public schools. These provisions were later included in each new state's enabling act, with some slight variations. Utah, for example, was granted four state school trust sections (2, 16, 32, and 36) in each township.

This grid survey system worked well on the flat, populated agrarian lands for which it was designed. However, much of the rugged Intermountain West was not even surveyed until the 20th century, and the most isolated areas will never be surveyed. As for the school trust sections (state sections) that were surveyed, only a few readily accessible ones were leased or sold to fund public schools. Most were, and remained, unavailable wastelands. Many states decided to get what they could for their school sections and sold them off, sometimes at ridiculously low prices. Others sold timber growing on school sections or leased the property to generate school funds. Utah, handicapped by isolation and by its late admittance to the Union, found itself with large tracts of unsurveyed lands ineligible for sectioning. Land that was surveyed and sectioned was often inaccessible and/or

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5 In 1930, there were 23 million acres of federal lands in Utah, of which 11.5 million had yet to be surveyed - "Activities of the General Land Office in Various States," 28 September 1930, Box 12, Entry 992, Letters to Secretary of Interior, 1 July 1930-31 December 1937, Records of the U.S. Grazing Service, Administrative Records 1935-1946, Record Group 49, National Archives, Suitland, Maryland, 9.
quickly buried deep within national forests, Indian reservations, or the growing national park system.

Modern land ownership maps for Utah show a checkerboard pattern of these state-owned islands lying within broad expanses controlled by the Department of the Interior or the Department of Agriculture. Within Utah's national parks and monuments, there are slightly fewer state sections. This is because original school sections have been exchanged or purchased, as at Zion National Park, or the land was withdrawn from entry before the area was ever surveyed, as was the case with parts of Capitol Reef National Park.6

The state of Utah and other Western states firmly maintain a moral and legal duty to derive maximum income from these state sections. Thus, no matter the marginal value of the land and regardless of its location within a national park or monument, state land boards have leased their trust sections for grazing, oil, gas, coal, uranium, and commercial tourist developments.

State Lands And Capitol Reef Boundary Recommendations: 1932-1949

When Roger Toll, Superintendent of Yellowstone National Park and chief investigator for Western proposed monuments, first reported on the possibilities of a Wayne Wonderland National Monument or Park in November 1932, he saw no reason why all the land could not be easily acquired by the National Park Service. Toll wrote, “Almost all of the land involved is public domain, is not within any national forest, Indian reservation or other withdrawn area. If desirable tracts are found they would probably be free from complications as to land status.”7

Toll's assumption that the proposed monument's land, except for Fruita, was public domain was restated in his more detailed 1934 report on Wayne Wonderland. Of course, Toll can not be blamed for believing that the state of Utah would not object to the monument's location. After all, the state legislature had passed a resolution the previous year for a park that, upon later review, was found to include two state school sections.8

Subsequent correspondence and investigative reports give little attention to the issue of state lands within a relatively small Capitol Reef National Monument. Throughout the boundary adjustment period, the majority of attention was spent on other concerns, such as the private lands in Fruita, and winter grazing ranges. The assumption seemed to be

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6 O. P. DeJulio, Acting State Director, Bureau of Land Management, to Superintendent Krueger, 5 April 1962, File L1425, Accession 79-67A-505, Container 342490, Box 1, Records of the National Park Service, Record Group 79 (RG 79), National Archives - Rocky Mountain Region, Denver, Colorado (all RG 79 records from this repository unless otherwise stated); also see File L1425, Capitol Reef National Park Historic Superintendent's Files.

7 Toll to National Park Service Director, 8 November 1932, Box 1, Folder 1, Capitol Reef National Park Archives.

8 Toll to NPS Director, 13 April 1934, Box 1, Folder 1, Capitol Reef National Park Archives, 2-3, 9.
that the non-federal lands within Capitol Reef would simply be purchased or exchanged within a short period of time.\textsuperscript{9} The fact that one entire state section and half of another were added to the final monument boundaries in 1937 illustrates this lack of concern (Fig. 52).\textsuperscript{10}

When the boundaries were drawn, planners may not have known that the two sections (Salt Lake Meridian, T28S R6E S36 on top of Meeks Mesa, and T29S R6E S2, portion north of Utah 24's western entrance to the monument) were actually state sections. The monument's first development outline, released in 1938, mentions only one state-owned section, presumably T29 R7E S36. The other non-federal lands listed in 1938 were approximately 600 acres in private ownership and a 20-acre parcel, owned by Wayne County, on the high benches north of Pleasant Creek.\textsuperscript{11}

With the next development outline in 1943, a more thorough survey had been completed and the extent of the non-federal lands within Capitol Reef was realized for the first time. Of the 36,337-acre monument, almost 2,500 acres (7 percent) were state land, 40 acres belonged to the county, and a little over 917 acres (3 percent) were privately owned.\textsuperscript{12} Throughout the remainder of the 1940s, private inholdings in Fruita were the biggest management issue. Neither planning documents nor agency correspondence refers to any specific desire to resolve the question of the far more numerous state-owned lands within the monument.

\textit{State Lands During The Uranium Boom: 1950 - 1954}

With the arrival of the uranium boom in the late 1940s came a real possibility that the assumed wastelands of Capitol Reef would soon be opened to mining exploration. Since

\begin{itemize}
\item \textsuperscript{9} Preston P. Patraw, "Proposed Wayne Wonderland (Capitol Reef) National Monument," 3 August 1935, Box 1, Folder 2, Capitol Reef National Park Archives, 4. See Chapter 8 for more details on the various boundary proposals.
\item \textsuperscript{10} Presidential Proclamation, "Capitol Reef National Monument, Proclamation 2246," U.S. Statutes at Large, 50 (2 August 1937):1856.
\item \textsuperscript{11} Ibid.; "Development Outline for Capitol Reef National Monument," 1 March 1938, File CR-600-01, Accession 79-60A-354, Container 63180, Box 2, RG 79, 1. Another small parcel of a state section, T29 R7E S16 (north of Utah 24's right-of-way as it descended down into Fruita) was also not known to be within the monument at this time.
\item The history of the county-owned land north of Pleasant Creek has not been researched, although on-site evidence indicates it was used for grazing. The county land was within T30S R7E S20, which apparently had been added to state-owned lands in 1910. (H. Bryon Mock, Regional Administrator, Bureau of Land Management to Acting Regional Director Hugh M. Miller, 29 May 1953, File L1425-Utah 51-74, Capitol Reef Historic Superintendent's Files). This parcel was purchased by the Zion Natural History Association and donated to the National Park Service in May, 1969 (Master Deed Listing, 19 April 1993, File L1429, Capitol Reef Superintendent's Files).
\item \textsuperscript{12} "Development Outline for Capitol Reef National Monument," January 1943, File CR-600-01, 79-60A-354, Box 2, RG 79, 8.
\end{itemize}
the state-owned lands were not under direct control of the National Park Service, they posed an immediate concern.

In February 1950, Zion National Park Chief Ranger Fred Fagergren was sent to Salt Lake City to investigate the status of state lands within Zion and Capitol Reef. According to Fagergren, the state's land records showed that none of the school sections within Capitol Reef National Monument were under any valid leases. Despite that advantage, attempts failed to work out a preemptive exchange before the situation changed, mostly because of internal conflicts between the governor and the state land commissioner.13

Fears that these state sections could be leased to uranium miners were realized when Michael O'Reilly of the La Fortuna Mining Company began excavating on a state section (T29S R6E S36), immediately south of the Oyler Mine tunnels. O'Reilly claimed that he had a valid mining lease from the Utah State Land Office. He also claimed to have signed another lease for 40 acres on the state section west Fruita (T29S R6E S16). Acting Superintendent Charles Kelly observed, "This quarter section lies within the boundary of the monument and within sight of the ranger station. While there is no uranium on this particular piece of land, it obviously could be used for a hot dog stand or filling station."14

Zion National Park Superintendent Charles J. Smith was also concerned about the potential mining scars on Section 36, but lamented, "Apparently we have no recourse to prevent the state from leasing the land and letting the miners work it." Smith elaborated, "I regret that we have been unable to exchange state lands in the area, but it takes two to make a bargain and the state has not evinced particular interest in making the exchange. It may be that in the future we can get the land within the boundaries, but in the meantime we'll just have to grin and bear it."15

Smith hoped that no uranium would be found, thus discouraging future prospecting in the rest of the monument. In a subsequent memorandum to his regional director, Smith worried that these state mining leases within Capitol Reef would prevent any further progress toward a state/federal land exchange.16 Assistant Regional Director and former Zion National Park Superintendent Preston Patraw immediately wrote the Bureau of Land Management's regional administrator to voice similar concerns. According to Patraw, a tentative exchange had been previously approved by the new state land commissioner, but the state had not yet "checked" the specific lands to see if any involved Capitol Reef.17

13 Fagergren to Zion Superintendent, 23 February 1950, File CR-600, Ibid. Capitol Reef was under Zion's jurisdiction from 1937 to 1960, except during a brief period in the 1950s.
14 Kelly to Zion Superintendent, 20 September 1951, Ibid. This was foresight on Kelly's part, as it was on this section that Clair Bird built his gas station in the 1960s and began a flagstone mining operation in the early 1970s.
15 Smith to Kelly, 24 September 1951, Ibid.
16 Smith to Regional Director, 24 September 1951, Ibid.
17 Patraw to BLM Regional Administrator, 28 September 1951, Ibid.
BLM Regional Administrator H. Bryon Mock wrote about a month later with both good and bad news. The bad news was that the proposed land exchange did not include any state-owned sections within Capitol Reef National Monument. The good news was that, despite previous claims, no valid mineral leases had yet been issued within the monument's boundaries. 18 Two years later, during another abortive attempt to exchange the state lands within the monument, Administrator Mock sent a detailed status report on the state sections within Capitol Reef National Monument. This report also stated that no valid leases were recorded for any of the state's lands. 19

Then, in February 1954, Charles Kelly noted in his monthly narrative report that a road had been dug through Section 36 south of Grand Wash and that mining had commenced. 20 Actually, the Yellow Joe and Yellow Canary mines to which Kelly refers were north of state-owned T29S R6E S36, and the claims were filed with the General Land Office but did not involve a state lease. It appears that Kelly and the La Fortuna Mining Company were confused as to the exact location of the state section, the location of the mineral lease, or both. 21

**State Lands Exchange Proposals: 1954-1967**

In April 1954, the National Park Service, Bureau of Land Management, and members of the Utah State Land Board met to discuss the possibilities of land exchanges in Zion and Capitol Reef. While all sides appeared interested in making a deal, the state's uncompromising insistence on retaining mineral rights to the state sections and its desire to develop the recreational potential of those lands stalled the process once again. 22 This pattern of tentative agreements breaking down over opposing objectives is seen repeatedly throughout the state lands issue over the next 40 years.

Frustration over the inability to acquire the state sections was even cited as one reason for the National Park Service's reluctance to develop Utah's national parks and monuments. For example, during 1955, the Utah congressional delegation held meetings throughout southern Utah in order to drum up support for improving the National Park Service sites and thereby stimulate local economies. At these meetings, Zion National Park Superintendent Paul Franke pointed out that the National Park Service had not given

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18 Mock to Patraw, 25 October 1951, Ibid.

19 Mock to Hugh M. Miller, 29 May 1953, File L1415, Accession 79-67A-337, Container 919498, Box 1, RG 79.


21 Further correspondence and court records related to La Fortuna Mining Company and its Yellow Canary Claim do not mention the land as state-owned. See Chapter 15, Mining.

22 Zion Superintendent Paul R. Franke to Regional Director, 20 April 1954, File L1415-Utah 51-74, Capitol Reef Historic Superintendent's Files.
priority to developments in southern Utah because of "the complicated land ownership within the areas." This included state as well as private inholdings.\textsuperscript{23}

The problem with state lands grew following the small expansion of Capitol Reef in 1958. In order to secure land surrounding Utah 24, some 3,040 acres were added to the western side of the monument. The boundary was expanded south to Sulphur Creek, west to enclose all of Danish Hill below Fruita, and a little south toward Sleeping Rainbow Ranch. A result of this expansion, however, was that the remainder of two state sections were also added to monument lands. These were the part of T29 R5E S2 south of the old road's western entrance to the monument, and the remaining portion of T29S R6E S16 immediately west of Fruita.\textsuperscript{24} Both Section 2, which was right on the western boundary, and Section 16, which included the higher benches west of Fruita, were prime locations for tourist development leases. Thus, the minimal 1958 expansion significantly increased potential conflicts over state-owned lands within Capitol Reef National Monument.

Attempts to exchange or purchase these new sections would prove just as difficult as previous efforts.

In the spring of 1962, it appeared that some kind of exchange had been worked out that would significantly reduce the amount of state lands within Capitol Reef National Monument. However, the state sections that were to be transferred had never been formally surveyed prior to their withdrawal when Capitol Reef was created. Since they had not been surveyed before withdrawal, they were thus never eligible to be state school trust sections in the first place. It is possible that this was some kind federal transfer of lands outside the monument to the state in lieu of those withdrawn sections, but the documentation is not clear. In other words, while the transfer looked good on paper, it meant that no land within Capitol Reef really changed hands. Thus, by 1962, the four complete state-owned sections within Capitol Reef National Monument continued to be T28S R5E S36, T29S R5E S2, and T29S R6E S16 and S36.\textsuperscript{25}

Then, in 1967, there was a major breakthrough. The previous fall, federal and state officials had worked out a tentative agreement that would enable the National Park Service to acquire two sections, T28S R5E S36 and T29 R6E S36, within the monument. However, a snag developed when local rancher Joe Hickman objected to the exchange because it would threaten his state grazing leases on the T28S section, which included a portion of Meeks Mesa. Hickman also had state grazing leases for Section 2 on the western monument boundary. He was, however, ready to deal. By March, an agreement


\textsuperscript{25} O. P. DeJulio, Acting State Director, Bureau of Land Management, to Capitol Reef Superintendent, 5 April 1962, File L1425-Utah 51-74, Capitol Reef Historic Superintendent’s Files. This is the only reference found in National Park Service records relating to this potential exchange. The Utah BLM and state records may contain more information.
had been reached among the state of Utah, Bureau of Land Management, the National Park Service, and Hickman, allowing Hickman to continue grazing on Meeks Mesa for eight more years under a special-use permit monitored by the BLM. In exchange, Hickman agreed to cancel both of his state grazing leases. This freed up the only known encumbrances to the two Sections 36, and they were acquired by the National Park Service. Section 2 was left out the 1967 land exchange and was acquired in 1976, in exchange for a Bureau of Land Management section in Castle Valley northeast of Moab.

Thus, by the end of 1967, the number of state school trust sections within Capitol Reef National Monument had been cut in half, with possibilities of acquiring an additional section (Section 2). This would have left the state school section immediately west of Fruita as the only potential development threat. This, coupled with the purchase of most of Fruita inholdings, meant Capitol Reef was finally acquiring the non-federal holdings.

Unfortunately, portions of the remaining state section had been leased by Capitol Reef Lodge owner Clair Bird in 1964 for commercial and mineral extraction purposes. As told in Chapter 15, Bird confirmed park management's worst fears. He first built a gas station next to the highway and in full view of the visitor center. Then, just as Capitol Reef National Monument was dramatically expanded and debate ensued as to its final national park boundaries, Bird began a flagstone mining operation that became one of Capitol Reef's most controversial issues.

Bird's ability to develop such sensitive lands with minimal National Park Service input is the classic illustration of the conflicts posed by state school sections within National Park Service boundaries. Attempts had been made throughout the 1950s and 1960s, mostly by the National Park Service, to acquire these lands, but either timing or specific terms prevented this from happening.

State Lands During The Expansion Debates: 1969-1971

When Capitol Reef National Monument was expanded in January 1969, the additional 215,000 included 23,680 acres of state school sections. Just as it seemed the non-federal land problems were being reduced, they increased as dramatically as the monument itself.

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27 Ibid.; "Agreement between the Bureau of Land Management and Joe Hickman," 2 March 1967, Ibid. Unfortunately there is no copy of the actual transfer agreement in the Capitol Reef files. A copy, if available, should be acquired from the State Land Office.


29 See L1425-Bird files, Capitol Reef Historic Superintendent’s Files. A summary of the events related to the Bird leases on Section 16 is found in Chapter 15, Mining and Related Encroachments.
At first, it seemed that these state sections would be only a minor irritant, just as they had been in 1937 and 1958. During the Johnson Administration's internal debate over the amount of National Park Service land to be added to the monument during the president's last days in office, there was no known consideration of the long-term effects that isolated state sections might have on Capitol Reef's management. And throughout the various hearings and debates over the exact boundaries of a Capitol Reef National Park, the amount of state land is mentioned almost as an afterthought.

Even among those opposed to the expansion, the loss of grazing and multiple-use of the entire public domain was of far greater concern that the enclosure of almost 24,000 acres of school trust lands. Both sides seemed to assume that, whatever the final boundaries, the state sections would soon be acquired by donation or exchange. In the end, however, the various boundary compromises (due to other concerns) reduced state-owned lands in the park to fewer than 20,000 acres. The final language of Capitol Reef National Park's enabling legislation briefly stated 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."  

State Lands, Private Lands And Lease Purchases: 1971-1978

Only three months after the monument was expanded in January 1969, a list of state sections was drawn up by the regional office in Santa Fe to facilitate a land exchange dialogue. Yet, in a September 1971 briefing statement, Capitol Reef Chief Ranger Bert Speed communicated his frustration with the lack of progress toward such an exchange. Speed blamed the delay on the reluctance of the Bureau of Land Management's state director and on practices of the Utah State Land Board. Except for the 1976 exchange

30 See staff files of Dorothy Territo, Office of President File, "Udall-National Monument," Lyndon B. Johnson Library, Austin, Texas, photocopies in Administrative History files and notes, Capitol Reef Unprocessed Archives. See Chapter 10 for more details on Secretary of Interior Stewart Udall's efforts to double the National Park Service lands from July 1968 to January 1969.

31 For examples see the newspaper clippings in Box 8, folders 3-5, Capitol Reef National Park Archives; also see Congressional Record, 91st Cong., 1st sess., 1969, 115:2402-2405.


The final "stair-stepped" boundaries of Capitol Reef National Park were sometimes drawn around state sections and at other times included them. The decisions seemed more to do with other factors than just whether or not the land was a state school trust section.


of the state section on the park's western boundary (through which Utah 24 passed) for Bureau of Land Management land northeast of Moab, progress toward a land exchange for all 20,000 acres of state-owned land was stalled throughout the rest of the 1970s.

State leases also complicated the exchange of state lands within the park for other federal lands outside the park. After all, Utah was attempting to earn revenue from these sections to help pay for education expenses. For example, virtually every acre the state either owned or held rights to had a state grazing lease attached. These leases were spread among the various permittees of Capitol Reef and accounted for over 1,300 AUMs.\(^{36}\)

Another hindrance was the various mining leases granted on state sections, and the subsurface mining rights that the state retained on land sold outright to various individuals. For example, the 1961-62 acquisition of a 40-acre private parcel east of Fruita (NE1/4SW1/4 T29S R6E S13,) for the new road's right-of-way was held up because the state retained the sub-surface mineral rights. Even though the BLM’s mineral survey team had appraised the value as "nominal," the state wanted to hold all existing mineral rights lest it set a precedent for state land acquisition in the newly proposed Canyonlands National Park. While a declaration of taking was eventually secured without the mineral rights, these negotiations indicated that future state-held encumbrances would be difficult to acquire.\(^{37}\)

When Capitol Reef National Park was established in 1971, it inherited several state-owned reserved mineral interests that did not have current leases attached. These included the 40 acres in Section 13 immediately east of Fruita, as well as reserved mineral interests to Section 16, previously leased to Clair Bird. Two other portions of state-owned mineral interests with no current leases were held in the southern end of the park.\(^{38}\)

**Project Bold: 1979-1984**

According to Capitol Reef's 1984 "Statement for Management," the primary objectives of this new land exchange effort, termed Project Bold, were to “improve the land management potential of both state and federal lands, to eliminate unnecessary federal/state conflicts generated by existing ownership patterns, and to facilitate the management of state owned land by substantially realigning the scattered state sections

\(^{36}\) List of State Grazing Leases, 19 August 1982, Grazing Management Files-State Leases, Capitol Reef Resource Management Files. Also see Chapter 1, Grazing History.

\(^{37}\) See Thomas J. Allen, Regional Director, to NPS Director, 10 August 1962, File L1425-Utah 51-74, Capitol Reef Historic Superintendent’s Files.

and creating new blocks of state lands.” The statement noted, “The State school sections may eventually come under Federal ownership.”

While Project Bold was a fresh approach, especially since it was begun at the state level, it too soon stalled. The National Park Service, for one, was concerned that residual grazing and mineral leases on the state sections would prove incompatible with park management. The agency, however, was unwilling to voice these concerns for fear that the state would pull out of the deal. This was only one of the many problems that needing resolution before any agreement was concluded.

As it turned out, there was not enough time to work out these problems with Project Bold. Initially proposed in the late 1970s by Matheson, it was 1984 when Rep. Jim Hansen introduced a bill in Congress. After one hearing, little else was done for Project Bold during that session. This effectively killed the entire project, as Matheson retired after the 1984 election and the new Republican governor, Norman Bangerter, seemed uninterested in his Democratic predecessor's state-wide proposal. Instead, Bangerter focused on smaller exchanges, such as a plan to acquire 50,000 acres surrounding the Lake Powell marinas.

**Burr Trail State Section Transfer: 1987-1994**

Bangerter's proposal for small, individual land exchanges is mentioned in Capitol Reef's 1987 Statement for Management as the only realistic option then available to the National Park Service. Notably, by 1987, all the state's mineral leases within the park had expired and there were no immediate concerns regarding any of the state sections within the park. This state of affairs quickly changed, however, at the end of 1987, when the state transferred T34S R8E S16, astride the Burr Trail, to Garfield County ownership. While Garfield County assured Capitol Reef managers that this exchange was made only to pressure Congress to release appropriated money for paving the Boulder-Bullfrog Road, park managers worried about the development possibility of this accessible and lovely tract of non-federal land. In response to Garfield County's actions, the National Parks and Conservation Association successfully asked for an injunction from the Utah State

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41 Ibid.


43 *Salt Lake Tribune*, 5 January 1988; see Chapter 16, Roads, Trails and Utilities.
Supreme Court to prevent any use of the land other than standard road maintenance. This injunction is still in effect as of March 1995.\textsuperscript{44}


During 1988, Utah Rep. Wayne Owens introduced a bill to try once again for a state-wide exchange of federal lands for state-owned inholdings. On May 20, 1988, the House Subcommittee on National Parks and Public Lands held a field hearing in Salt Lake City. At this hearing, both state officials and representatives from the environmental community objected to the bill's provisions. Governor Bangerter continued to oppose a state-wide initiative in favor of more selective exchanges, such as the one proposed for Glen Canyon National Recreation Area. Terri Martin, regional representative of the National Parks and Conservation Association, was concerned that the bill provided the state with an open invitation to acquire and develop mineral-rich federal lands in scenic or environmentally sensitive areas. According to Martin, this would result in more damage than would maintaining the status quo. After the hearing, no further action was taken on Owens's bill.\textsuperscript{45}

For the next four years there was little mention of proposed land exchanges in Capitol Reef's reports and memoranda. In 1992, Governor Bangerter asked the Utah congressional delegation to try once again to get land exchange authorization through Congress. Hansen and Owens sponsored slightly different versions of a state-wide exchange of state school trust sections within various federal reservations in return for federal land, mineral rights and/or additional revenue.\textsuperscript{46}

On June 16, 1992, a hearing in Washington, D.C. on these and similar bills was held before the House Subcommittee on National Parks and Public Lands, chaired by Bruce Vento of Minnesota. Republican Jim Hansen's bill was more enthusiastically endorsed by Governor Bangerter because it would bring substantially more money into the state's education fund. Hansen's H.R. 4769 would require that all state sections held within Utah's national parks, monuments and recreation areas would be turned over to the National Park Service. In return, the state would receive an additional 25 percent (beyond the 50 percent already required by law) from all federal mineral receipts in Utah for the next 25 years. According to figures released during the bill's hearing, the total compensation to the state of Utah would be about $663.5 million, or roughly $8,000 an

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\textsuperscript{44} See Superintendent's Annual Narrative Reports, 1987-1990, File A2621, Capitol Reef Superintendent's Files; Charles V. Lundy, Capitol Reef Superintendent, telephone interview with Bradford Frye, 29 July 1994, tape on file with Administrative History files and notes, Capitol Reef Unprocessed Archives.
\textsuperscript{46} Subcommittee Hearings, 8-34.
This was a great deal more than the $125-150 an acre estimate of the National Park Service. Democrat Wayne Owens's bill also stipulated payment for these state sections within Utah's parks, but his H.R. 5118 would cap federal compensation through these same mineral revenues at $170 million, or about $2,000 an acre. Needless to say, the Department of Interior spokesman, BLM Director Cy Jamison, did not favor either of these proposals. Jamison argued that any land exchanged should be about equal in value. According to Jamison, an agreed upon value should be derived by skilled appraisers rather than arbitrary formulas specified by the proposed legislation.

Both sides saw additional problems with the two bills, yet this time both were willing to negotiate in good faith. Governor Bangerter said in a prepared statement to the subcommittee, "I believe the method of payment is fair, and quickly moves much needed money into the schools of our state. However, we are also willing to accept land or interests in mineral resources....We are willing to negotiate the value of our lands based on appraisal....In summary, I want to emphasize that the state is willing be to flexible in this process."

Bangerter, however, did warn that if an administrative or legislative solution could not be reached, the state might initiate mining or other developments within National Park Service lands and to go to court to defend those actions.

BLM Director Jamison likewise asserted the Department of Interior's desire to be flexible. Recognizing that disagreements regarding the actual value of the state inholdings had derailed past state/federal land exchanges, Jamison acknowledged a need to "keep the momentum" on negotiations.

It thus appeared that both sides truly wanted and needed a resolution to a state lands problem that was continually growing worse. Finally, on Oct. 1, 1993, a compromise "Utah Schools and Lands Improvement Act" was signed into law. This act would provide for the eventual transfer of 80,000 acres of state school trust sections that are within National Park Service boundaries, as well as 80,000 acres in national forests and 40,000 within Indian reservations. Along with the lands, both surface and subsurface rights are to be transferred. In return, the state will receive a relatively small amount of

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\[\text{\footnote{\text{Ibid., 34.}}} \]

\[\text{\footnote{\text{Ibid., 190.}}} \]

\[\text{\footnote{\text{Ibid., 36.}}} \]

\[\text{\footnote{Subcommittee Hearings, 16 June 1992, 189-190.}}} \]

\[\text{\footnote{\text{Ibid., 74-75.}}} \]

\[\text{\footnote{\text{Ibid.}}} \]

\[\text{\footnote{\text{Ibid., 187-188.}}} \]

\[\text{\footnote{P.L. 103-93, U.S. Statutes at Large, 107 (1993):95.}}} \]

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land with existing mineral leases or other valuable assets (such as a ski area), and up to $50 million in federal mineral royalties.55

According to Richard A. Young, Chief of the Rocky Mountain Region's Land Resources Division, once the appraisal process is settled, the actual surveys should be quickly completed. The lands will be evaluated for potential minerals, tourist development revenues, or other factors that may increase the state's compensation. A separate federal survey will also determine if any of the state sections contains hazardous waste sites (such as current or abandoned uranium mines) or other potential problems that must be cleared before the land is actually transferred.56

Post-Park Private Lands

The remaining few pieces of non-federal land within Capitol Reef National Park were private lands that were not purchased in the early 1960s or that were part of the 1969 expansion. By the end of 1969, long-time Fruita resident Dewey Gifford had sold his house, barn, and 12.28 acres of land for $41,000.57

The next tract to be acquired was a former state section purchased outright by ranchers Rulen and Inez Morrell. This section (T26S R5E S36) was desirable because it was strategically placed between Upper and Lower Cathedral Valleys, encompassed the Caineville Wash/Baker Ranch/Fremont Junction road intersection, and included some spectacular monoliths, igneous dikes, and the Gypsum Sinkhole. The National Park feared that the Morrells would sell the land to development interests.58

The National Park Service's Utah Land Office initially offered to buy the Morrells' rights for $22,400. Rulen Morrell responded that his grazing interests made his land worth at least $200 an acre ($128,000 for the entire 640-acre section) but that he was willing to "get together on a price."59

In May 1972, the National Park Service sent Realty Specialist Lee Garrison to negotiate with the Morrells at their home in Fremont. Garrison reported, "We argued, bickered, and negotiated on every reason we could think of why they should sell to the Park for the appraised price of $22,400. Mr. Morrell is 64 years old and has had two heart attacks in


56 Ibid.; Charles Lundy, telephone interview, 29 July 1994; Richard Young, telephone interview.


59 Morrell to State Land Office, 19 March 1972, Ibid.
the last six months, and we finally signed them up with a life's estate grazing use of the
section.\textsuperscript{60}

In the end, Garrison was pleased that he was able to get the Morrells to sell for the
appraised value of $35 an acre.\textsuperscript{61}

The Bird property and leases, the Sleeping Rainbow Ranch on Pleasant Creek, and a
former state section purchased years before by Wonderland Stages were next on the list.
Unfortunately, Capitol Reef National Park's enabling legislation had set a $423,000 ceiling
on private land purchases -- not nearly enough to purchase all the private tracts.\textsuperscript{62} Thus,
all land deals were off until 1976, when Congress increased acquisition funds to
$2,173,000.\textsuperscript{63} The next year, the section owned by Wonderland Stages, a commercial
tour guiding service operated by Salt Lake residents John and Stewart Campbell, was
purchased for $275,000. This purchase enabled the National Park Service to acquire the
historic Behunin cabin, the man-made waterfall, and the abandoned meander of the
Fremont River near the eastern boundary. In 1978, Clair Bird's Capitol Reef Lodge and
state land leases were acquired by condemnation of taking for almost $400,000.\textsuperscript{64}

This left only two private parcels of land within the park: the Sleeping Rainbow Ranch
owned by Lurton and Alice Knee, and a .42-acre tract, owned by descendants of Fruita
pioneer Amasa E. Pierce, near the junction of Sulphur Creek and the Fremont River.

\textit{Sleeping Rainbow Ranch Purchase: 1974-1994}

When Capitol Reef National Monument was expanded in 1969, approximately 300 acres
owned by Lurton and Alice Knee at Pleasant Creek became an inholding. This area had
been first settled by Ephraim K. Hanks and his family in 1882. They later built the first
permanent house in what is now Capitol Reef National Park. After Ephraim's death, his
wife Thisbee gained title to 160 acres through the Homestead Act in 1899. From 1916 to

\textsuperscript{60} Garrison, "Negotiator's Progress Record," 12 May 1972, Ibid.


\textsuperscript{62} P.L. 92-207.

\textsuperscript{63} See Chapter 15, for details on this legislation related to purchasing Clair Bird's mineral and
commercial leases and property.

\textsuperscript{64} 1993 Master Deed Listing. Unfortunately there is not much information on the Wonderland
Stages land. During the appeal for more acquisition money in 1974, it was mentioned that the Campbells
intended to either develop the land or sell to someone else - possibly Clair Bird. The land was initially
appraised for $29,600, but the Campbells wanted $500,000; see Lloyd L. Garrison, Reality Specialist, to
Chief Division of Lands, Rocky Mountain Region, 15 March 1974, File L1429-Land Records, Capitol
Reef Historic Superintendent's Files.

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1937, the Floral Ranch passed through several hands before being purchased by Ezra and Levi Bullard of Torrey.\textsuperscript{65}

By 1940, the Bullards had wearied of the ranch's isolation, so they sold the Floral Ranch to Lurton Knee and his first wife, Margaret. Knee, who had worked with his brother-in-law Tom Goulding in Monument Valley, investigated the potential of starting his own tourist business near Capitol Reef National Monument. The Knees saw the Pleasant Creek location as perfect for starting a guest ranch and tour business patterned after the Goulding operation. Throughout the 1940s, the Knees struggled to survive by raising a few cows and pigs. (It was during this time that the dilapidated Hanks house on the north bank above Pleasant Creek was burned to the ground by Knee's ranch hand.) After the end of World War II, the Knees began to plan their tourist business, the Sleeping Rainbow Ranch.\textsuperscript{66}

By the time the monument encompassed their land in 1969, the Knees had built a house, cabins, and a small, concrete block motel on a knoll overlooking horse corrals and fenced pastures. They had maintained an irrigation canal, spring and pump water system, and had constructed a power/telephone line through the Pleasant Creek Gorge to the west. The Knees' acreage was now up to the approximately 300 acres, with a lease on an adjoining state section, as well.\textsuperscript{67}

Lurton Knee later recalled that he actively supported the expanded monument and later park boundary lines, fully aware that the boundary would make him an inholder. He stated in 1992, "I had to debate then on whether to enlarge, go on and make a larger guest ranch out of it or to sell it to the national park, because I knew then I became an inholder."\textsuperscript{68}

Because of the insufficient $423,000 initial cap placed on private land acquisitions in the 1971 legislation, acquisition of the entire Sleeping Rainbow Ranch had to be delayed. Meanwhile, 140 acres of the ranch were purchased for $300,000 in the fall of 1974.\textsuperscript{69}

When the acquisition ceiling was raised in 1976, the Knees realized that their chance to sell the rest of their property was at hand. They decided to sell their land to a church, thereby establishing a tax-free trust fund that would provide them with steady retirement income. The chosen church would then sell the land to the National Park Service. The


\textsuperscript{66} Lurton Knee, interview with Bradford Frye, 18 September 1992, Capitol Reef National Park Archives; transcript and tape also in University of Utah Library Special Collections, Salt Lake City.

\textsuperscript{67} Ibid.; see File L1425-Knee, Capitol Reef Superintendent's Files.

\textsuperscript{68} Lurton Knee, interview with Bradford Frye, 18 September 1992, rough draft of transcript, 54.

\textsuperscript{69} 1993 Master Deed Listing, File L1429-Land Records, Capitol Reef Superintendent's Files.
other key provision of any deal would be that the Knees and their children would be granted life residency to a portion of the land.  

Around 1976, the Knees approached officials at Brigham Young University in Provo, Utah, with their proposal. The university, in consultation with the Church of Jesus Christ of Latter-day Saints, determined that it could not meet all of Lurton Knee's stipulations. The Knees then revised their life estate requirement, dropping their children from the provision, and turned to the more flexible Seventh Day Adventist Church.

In January 1978, earnest negotiations began between the National Park Service and Lurton and Alice Knee. Sherman W. Swenson, National Park Service Chief of the Division of Land Acquisition, spent a day with the Knees hammering out an initial deal. The Knees agreed to sell 235 acres, so long as they could retain 25 acres as a life estate. They would also retain rights-of-way for their spring and pump water system, root cellar, the power and telephone lines, and the rights to water and pasture necessary to keep three horses. Swenson reported, “It is my recommendation that we go along with their requirements. The price is okay. Our only alternative to this is condemnation, and in light of the present climate regarding our use of condemnation, I would recommend against it.”

By April 1978, the formalities of a purchase agreement had been worked out among the Knees, the Southern California Branch of The Seventh Day Adventist Church, and the National Park Service. The NPS would acquire the 235 acres for $450,000. In June 1978, an additional $17,805 were paid directly to the Knees for 11.87 acres of their life estate.

Lurton Knee died in the early 1995. Currently, the area is used primarily for trailhead parking by hikers using Pleasant Creek trail, and by four-wheel drive and mountain bike enthusiasts passing by along the South Draw Road.

Archeological and historic surveys of the area have demonstrated the need to protect this impressive entrance to the Waterpocket Fold. The Knees’ old guest ranch facility is now under consideration for use as a university-operated environmental education and research center. The area is also a potential location for future park housing or visitor facilities.


In one of the numerous small land transactions within Fruita prior to the National Park Service’s arrival, a small parcel of land, only .42 acres, was somehow overlooked. This

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70 Knee, interview.
71 Ibid.; Sherman W. Swenson, Chief, Division of Land Acquisition, to John Cunningham, Brigham Young University, 8 December 1976, File L1425, Capitol Reef Superintendent’s Files.
72 Swenson to Superintendent Frank Wallace, 1 February 1978, File 1425-Knee.
73 1993 Master Deed Listing, "Offers to Sell" and "Warranty Deeds," Ibid.
situation may have arisen from the inaccurate, confusing manner in which the various individual orchard farms were identified. Another reason may be that the tract was located within the Fremont River floodplain immediately downstream from the junction of Sulphur Creek. Thus, either the spring run-off or the numerous flash floods descending the Fremont River or Sulphur Creek drainages would occasionally inundate this tiny piece of land.\(^74\)

When the National Park Service began purchasing the private Fruita inholdings in the 1940s and 1960s, this small parcel was overlooked once again. It was not until the late 1970s or early 1980 that some National Park Service official realized that there was a gap between acquired lands. The National Park Service set out to find the last legal owner and his or her heirs of the property and then offer to purchase the land at its appraised value.\(^75\)

By the end of 1980, the Sixth District Court in Wayne County had validated the National Park Service’s findings that tract 01-161 had last belonged to Amasa E. Pierce, who died in 1933, and that there were 22 living heirs.\(^76\) The next task for the National Park Service was to track down those heirs and have them either convey their interests in the land to one family member willing to sell, or come to some other consensus as to how the land was to be disposed. The appraised value of the .42 acres was calculated at $2,000.\(^77\)

At first the closest living descendent, daughter Romania Pierce Tanner, countered with an offer to sell the land for $2,500. However, she was unable to get all the other heirs to agree to this. Then, some of the descendants of Amasa Pierce offered to sell the land to the National Park Service if half the amount could go to a park memorial to their grandparents. Superintendent Derek Hambly advised the family that the proposed transaction was against National Park Service policy. The heirs then suggested that an additional room at the visitor center or some kind of picnic shelter honoring all the Fruita pioneers might be possible. According to Pierce family spokesman Leah P. Johnson, this offer was also denied by park management. Accordingly, the heirs decided that they would simply take all the money and divide it among themselves.\(^78\)

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\(^{74}\) See File L1425-Tanner, Capitol Reef Superintendent’s Files.

\(^{75}\) Richard A. Young, telephone interview, 21 September 1994.

\(^{76}\) Probate #423-6, 14 October 1980, Sixth District Court of Wayne County, Loa, Utah, photocopy in File 1425-Tanner.

\(^{77}\) Lloyd L. Garrison, Acting Chief, Division of Land Acquisition, to Romania Pierce Tanner and others, 18 December 1980, File L1425-Tanner.

\(^{78}\) Leah P. Johnson to Garrison, 22 January 1981, Ibid. In a February 1981 letter, Lloyd L. Garrison of the Division of Land Acquisition informed Leah Johnson that it was indeed true that “funds available for the purchase of land could not be used towards a memorial.” He did, however, advise that once the land was sold, the various individuals could pool and donate their money to Capitol Reef in exchange for a memorial plaque.

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The National Park Service then offered to pay the $2,500 asked by Romania Tanner, but this was dropped "because 19 heirs could not agree on conveying their interest." While the heirs were trying to reach an agreement, the Secretary of the Interior issued an order in early 1981 that stopped all land acquisition attempts until further notice. Thus, the sale of tract 01-161 was postponed indefinitely.80

There were no new developments on the tract for seven years. Then, in June 1988, two Pierce family descendants, Max and Blaine Tanner, went to Fruita to inquire about possible uses or sale of their land. By this time, failure to pay back taxes on the land (added to the Wayne County rolls upon its discovery in the early 1980s) had almost eliminated the Pierce descendants' claims. Four distantly related family members, including Max and Blaine Tanner, paid the required $450 in back taxes. While this payment kept the Pierce claim viable, at least all future negotiations would involve only those who had paid the taxes.81

During this June 1988 meeting, the Tanners told Chief Ranger Poe they wanted to put a cabin or camping trailer on the site for recreational use. Poe explained that this would be in violation of National Park Service policy. Poe also pointed out that since virtually the entire land was within the Fremont River's immediate floodplain, it would simply be easier for everyone if they would sell out.82

In June 1989, Max Tanner notified the National Park Service that the remaining owners of the Pierce property were now willing to sell for $6,000. Tanner dismissed the argument that the land was of little value because its location, and stated that it had great potential for development once minor problems of access were overcome.83 This "minor" problem was the fact that the Tanners would have to get an easement over national park land from Utah 24 -- an easement that the National Park Service was not about to grant. Richard A. Young, Rocky Mountain Region Chief of the Land Resources Division wrote Tanner a curt response. Young stated flatly that the National Park Service was not willing to negotiate on its latest offer of $1,000, less than half what the land would have sold for in 1980.

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79 Max Tanner to Garrison, 26 June 1989, Ibid. In a June 1988 note from Chief Ranger Noel Poe to Superintendent Martin C. Ott, Poe stated that one of the Pierce descendants had insisted that the land was really worth $20,000 instead of $2,300 offered by the National Park Service. It is unknown when the $2,300 offer, if accurate, was made.

80 Garrison to Johnson, 23 February 1981, Ibid.

81 Regional Director to Regional Solicitor, 15 September 1989, File L1425-Gen. Correspondence, Capitol Reef Historic Superintendent's Files; Max Tanner to Lloyd Garrison, 26 June 1989, File L1425-Tanner, Capitol Reef Superintendent's Files.

82 Poe to Ott, 1 June 1988, File L1425-Tanner.

83 Tanner to Garrison, 25 June 1989, Ibid.
Max Tanner responded that his family had decided to use the land as a vacation site and that they would be willing to pay for the necessary easement. This offer was also summarily rejected, this time by Homer L. Rouse in the capacity of Acting Regional Director.

As of March 1995, the status of Amasa Pierce descendant's property, tract 01-161, is not resolved. As long as the National Park Service is able to control access to the site, it can not be utilized for anything other than a walk along the river.

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84 Tanner to Young, 28 August 1989, File L1425-Tanner.
85 Rouse to Tanner, 29 September 1989, Ibid.
Figure 52. State lands included within 1937 Capitol Reef National Monument boundaries. T28S R6E S36 and T29S R6E S2 are state school trust lands.
CAPITOL REEF NATIONAL MONUMENT
UTAH

Established by Proclamation No. 2246
Aug 2, 1937
Approximately 37,060 Acres.

LEGEND
- National Monument Boundary
- National Forest Boundary
- County Line.
- First Class Roads
- Secondary Roads
- Archaeological Sites

Prepared from G.I.O. maps, Natl. Forest Service maps & other sources.

N.M.-CR-7001 Dec 2, 1937
REFERENCES

Books And Department Of Interior Documents And Publications


Newspapers


Other Federal Records


Archives

Capitol Reef National Park, Torrey, Utah:

Active Superintendent’s Files
Historic Superintendent’s Files
Capitol Reef National Park Archives
Resource Management Files

Lyndon B. Johnson Library, Austin, Texas:

Dorothy Territo Staff Files
Office of President Files, Box 12. "Udall-National Monument."

National Archives - Rocky Mountain Region, Denver, Colorado

Record Group 79 - Records of the National Park Service

Accessions:

79-60A-354
79-67A-505
79-73A-136

National Archives - Suitland, Maryland

Record Group 49: Records of the U. S. Grazing Service

Administrative Records 1935-1946

Interviews


CHAPTER 18

PLANNING DOCUMENTS SUMMARY

This section summarizes the numerous National Park Service planning documents for the national monument and park, from the initial investigation in 1934 through 1994. Documents specific to an individual issue are usually summarized within pertinent chapters. The purpose of this final chapter is to give park managers some idea of the information contained in the larger, often multi-topic management plans and resource surveys, and to provide document locations. Another purpose is to summarize the content of each document.

Capitol Reef's planning documents can be organized into six groups:

1) Initial Investigations and Reports
2) General Management Plans, Development Outlines, and Statements for Management
3) Wilderness and Land Protection Plans
4) Natural Resources
5) Cultural Resources
6) Interpretation

Included in each summary are the document’s known location(s), its date and source (if known), background information, and a general list of the topics it covers. Each summary will conclude with an annotation regarding the document’s utility for future park managers and personnel.

Not included within this list of planning documents are the various Superintendent's Annual Reports from Zion (before the monument was officially activated) from 1937 to 1950; the Superintendent's Monthly Reports, 1950 to 1967; the Log of Significant Events from 1967 to 1971; or the Superintendent's Annual Reports after 1977. These contemporary summaries of management concerns, found in either the park archives or historic superintendent’s files, have proven invaluable in the writing of this administrative history. These reports should be read by all incoming managers at Capitol Reef National Park.
Initial Investigations And Reports


By Roger W. Toll, Superintendent, Yellowstone National Park

Document found in:

1. Records of the National Park Service, Record Group 79 (hereafter referred to as RG 79), Accession 79-60A-354, Container 63179, Box 1, File NPS-000, National Archives - Rocky Mountain Region, Denver, Colorado (hereafter referred to as NA-Denver).
2. RG 79, Entry 20, Box 11, National Archives, Washington, D.C. (hereafter referred to as NA).
3. Box 1, Folder 2, Capitol Reef Archives.
4. Files compiled during research and writing of Capitol Reef Administrative History (hereafter referred to as Admin. History Files).

In early November 1933, Roger W. Toll, Superintendent at Yellowstone and designated investigator of proposed National Park Service sites in the Western United States, made his second trip to south-central Utah to investigate the possibilities of creating a Wayne Wonderland National Monument. The Utah State Legislature had recently passed a resolution to include three units in Wayne County in a new national park or monument. Toll's task was to examine and assess each unit and make recommendations to National Park Service Director Arno B. Cammerer.

Toll's 1934 report contains detailed legal descriptions for the three proposed units, discusses the general scenic and scientific features of each, and gives a little detail on land ownership, history of the project to date, and the divided local sentiment toward a national monument in the area. There is also a brief listing of significant features and how their names were derived, a short bibliography, and an itinerary of Toll's tour of the area.

The most important features of this report are Toll's recommendations. In his opinion, Unit #1 (Velvet Ridge between Torrey and Bicknell) was not worthy of inclusion. Instead, Toll recommended that Units #2 and #3, which included most of the original monument boundaries plus a good-sized portion of the Upper Fremont River Canyon, be immediately withdrawn from entry and the area designated as Wayne Wonderland National Monument.

This report is extremely important because it is the first detailed analysis of Capitol Reef by a National Park Service official. Descriptions of roads, Fruita, and prospective accommodations are useful, but the most significant contribution of this document is the detailed study of the potential boundaries and Toll's recommendation that the area be withdrawn and designated as a national monument.

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1 All plans written by National Park Service personnel unless otherwise noted.
2 See Chapter 8 for details of the early efforts to establish a national monument in the area.
considered as a future national monument as opposed to a national park. This report was the first necessary step toward the creation of Capitol Reef National Monument in 1937.

Proposed Wayne Wonderland (Capitol Reef) National Monument - 1935

By Preston P. Patraw, Superintendent, Zion National Park

Document found in:
1. RG 79, Accession 79-60A-354, Container 63179, Box 1, File CR 101, NA-Denver.
2. Box 1, Folder 2, Capitol Reef Archives.
3. Photographs are found in Capitol Reef Photo collection, Capitol Reef Unprocessed Archives.
4. Administrative History Notes and Files.

In August 1935, Zion National Park Superintendent Preston Patraw conducted a further investigation of the proposed national monument. The narrative of this report is more detailed and descriptive than Toll's. It covers the following topics:

a) general location and description;
b) accessibility;
c) general characteristics of area;
d) land ownership and values;
e) local sentiment;
f) potential water supplies and tourist facilities; and

g) name for proposed monument. (Patraw recommends changing name from Wayne Wonderland to Capitol Reef.)

Also included in the Patraw report is a list of the land plats within the proposed boundaries -- including each of the landowners at Fruita and a tabulated list of alienated and open lands by legal description. Incorporated within the Patraw report is a cursory list of wildlife reported in the Capitol Reef area, compiled by Wildlife Technician A. E. Borrell. As part of the Patraw investigation, numerous photographs were taken by George Grant and several aerial photographs with the proposed boundaries sketched in were provided.
The significance of the 1935 Patraw Report lies in:

1) its recommendation to change the name from Wayne Wonderland to Capitol Reef, the term given to the area of the Waterpocket Fold on both sides of the Fremont River canyon where many sandstone domes were shaped like capitol rotunda;

2) the stretching of the southern boundary down to the Garfield County line;

3) the elimination of Fish Creek Cove from consideration;

4) a discussion of negative sentiment toward the monument from area ranchers; and

5) the 1935 compilation of specific landownership boundaries.

Special Report on Flora and Fauna - 20 October 1939
By Joseph S. Dixon, Field Naturalist

Considering that this is the monument's first detailed report by a National Park Service naturalist, Dixon's report is disappointing. Of its eight pages, five are spent almost exclusively discussing the location and construction of the Hickman Bridge trail, then under construction by the CCC. The sections on anthropology and flora are too brief to be of much value, and the faunal lists cover only a few common species. Dixon recommends further study of the area, improving the road to allow for better visitor access, and continued concession competition. Aside from the list of common species found in the region and photos of the Hickman Bridge trail, this report is not of great value or significance.

Special Report - Capitol Reef National Monument - May 1940
By W. B. McDougall, Regional Biologist

Considering that this is the monument's first detailed report by a National Park Service naturalist, Dixon's report is disappointing. Of its eight pages, five are spent almost exclusively discussing the location and construction of the Hickman Bridge trail, then under construction by the CCC. The sections on anthropology and flora are too brief to be of much value, and the faunal lists cover only a few common species. Dixon recommends further study of the area, improving the road to allow for better visitor access, and continued concession competition. Aside from the list of common species found in the region and photos of the Hickman Bridge trail, this report is not of great value or significance.
This is another disappointing report. Because of transportation problems and threats of rain, Regional Biologist McDougall spent only about a day in the monument, never leaving the main road. He provides a short list of plants and observes evidence of overgrazing. He also mentions that the CCC-constructed ranger station is almost completed. The lack of detailed information on the natural resources of Capitol Reef National Monument during its early years is an unfortunate omission.

General Management Plans, Development Outlines And Task Directives

Development Outline For Capitol Reef National Monument - 1 March 1938

Submitted by Preston P. Patraw, Superintendent, Zion National Park

Document found in:


2. Administrative History Notes and Files.

This is the earliest known formal planning document relating specifically to Capitol Reef National Monument. At the time of the document's submittal, the monument was less than one year old and had no allocated budget or personnel.

The 1938 development outline is only three pages long. The first page and a half discuss the monument's location and potential. Specifically mentioned are the campaign to improve the road through the monument and the desire to focus tourist accommodations in Torrey rather than inside the monument. Fruita is identified as the logical place to locate monument headquarters, and the desire to purchase the private inholdings in Fruita as soon as possible is clearly stated.

The minimal existing road system (Utah 24 through Capitol Gorge and a spur south to Pleasant Creek) and trails ("barely passable saddle trail to Hickman Bridge") are only briefly mentioned, as is the out-of-service single telephone line through Capitol Gorge.

Besides the fairly early suggestion to purchase the inholdings and locate the headquarters at Fruita, the significance of this brief document lies in its project plans. The 1938 development outline recommends a paved highway be constructed from the west boundary through Fruita and then either follow the Fremont River, Grand Wash, or Pleasant Creek. It also recommends maintaining minor but oiled road status into Grand Wash (if not chosen for the main route) and Capitol Gorge. Proposed additions to the trail system included saddle and foot trails from Grand Wash to Hickman Bridge and from the Fremont River west of Fruita to the "upper plateau." A single stock driveway was also to be either built or designated.
Construction needs were listed as a "ranger-checking station," museum, and sewage disposal systems. Other listed needs were: boundary survey and postings; archeological survey and mapping; range survey and mapping; geological survey and mapping; boundary, stock driveway, and stock drift fencing; and maintenance of the existing but very poor telephone line.

General Development Plan - 1939 - Drawing Nm CR 2004a

Document found in:
1. #158 20001, National Park Service, Denver Service Center, Technical Information Center, Denver.
2. Drawer 9, Folder 1, Capitol Reef Archives (incomplete).

This is a set of colored maps showing existing and proposed developments for Capitol Reef National Monument. There is no known text that corresponds with these maps.

Development Outline For Capitol Reef National Monument - January 1943
Submitted by Paul R. Franke, Superintendent, Zion National Park

Document found in:
2. Administrative History Notes and Files.

This is a fairly detailed narrative on existing conditions, landholdings, significant themes, and future objectives at a time when there was still no budget or paid custodian for the monument. The significant theme of Capitol Reef is its geology, with the secondary theme being archeology. The monument is noted as "unique in National Park areas," as the only place set aside for preservation and interpretation of the Fremont Culture.

Populations of the nearby communities are estimated and the various access routes are discussed. Visitation is estimated at 2,100 for 1941 and 1,000 for 1942. It also mentions that Doc Inglesby had been asked to monitor a U.S. Weather Bureau station.

The only encumbrance mentioned is Utah 24 through Capitol Gorge, which was the only right-of-way in the monument. According to this 1943 development outline, preliminary survey work by the Federal Roads Administration and the Utah State Highway

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3 As of 1943, Charles Kelly received rent-free use of the Chesnut/Holt house and its orchard in exchange for minimal custodial duties. He was not a full-time employee until 1950, when the monument was officially activated and given its own budget.
Commission had been completed in 1940 for a new road through the Fremont River canyon. It recommends that the abandoned telephone line be removed.

As far as water rights are concerned, the Fremont River and Pleasant Creek are listed as good quality, and Sulphur Creek as alkaline. The specific water rights held by the residents of Fruita are listed. Only Fremont River water, considered usually "roily" or muddy, is mentioned.

The specific acreages of state, county, and private inholdings are shown in this document, which estimates 1,000 acres of orchards within the monument. There are also revealing details concerning the voiding of all known mining claims within the monument.

The only significant policy statements in the 1943 development outline concerned the Fruita inholdings and the need for boundary adjustments. Zion National Park Superintendent Paul Franke believed that the private property within the monument should not be acquired by the National Park Service because of the hardship that the loss of tax revenues would place on the county. Franke argued that encouragement and cooperation would help maintain the properties "in conformity with standards to be established," and that only "small units of water" need be purchased for future park development.

Superintendent Franke recommended that the northeast boundary line, which ran along the southern edge of Utah 24, be changed to coincide with sectional lines. This would bring an additional 1,032.32 scenic acres to the monument. Franke also urged that the Floral Ranch on Pleasant Creek be acquired, even though it was not within monument boundaries.

The 1943 development outline is a useful and valuable document. It gives an excellent idea of the National Park Service's initial perceptions of the area, its significant features, interpretive themes, and current accessibility at a time when little investment (besides CCC construction projects) had been made at Capitol Reef. The development outline also lists private, state, county, and federal acreage, water rights allocations, and the specific mining claims and the process in which they were invalidated. This is the first planning document that reverses earlier plans to purchase Fruita inholdings, and the first to call for changing the monument boundary away from the highway and for including the Floral Ranch.

Master Plan And Development Outline - January 1949

Submitted by Charles J. Smith, Superintendent, Zion National Park

Document found in:
2. Administrative History Notes and Files (partial copy).
This is the most detailed planning document to date. It may have been significant in finally activating Capitol Reef National Monument and acquiring funding for a full-time employee.

The document is divided into two parts: the first details the current conditions and problems and the second is a planning prospectus. The standard descriptions of the area, its accessibility, climate, and general statistics have not changed since 1943. Page 13, however, contains an excellent table listing statistics related to government property, miles of boundary, roads and trails, and the lack of a campground. Visitation for 1948 is given as 4,834 cars for a total of 17,094 people.

The 1949 development theme for Capitol Reef places the "high class of visitor," including adventurers, students, artists, and writers, as the type of tourist most often seen in the area. According to the document, "It would seem that this class of use should set the theme for development."4

Objectives for Capitol Reef included:

a) acquisition of a full time employee;
b) construction of sanitary facilities, a campground, "suitable and proper" lodging, gas, and grocery supplies and an information station; and
c) advanced planning for the eventual paved highway through the monument. Yet, until the new highway's route was known, the final site of the monument's headquarters would have to be delayed.

A constant theme throughout the document is the dilemma over what to do with the private inholdings at Fruita. Superintendent Smith recommends that the residents of Fruita should not be bought out, at least for the present. Yet the document also notes that the limitations and uncertainty of future development of the inholdings, and their detrimental aesthetic qualities, seem to make continued private ownership of Fruita undesirable.

Other topics covered by the 1949 Master Plan Development Outline include:

a) a need for minor boundary revisions and a definitive boundary survey;
b) private land and water rights status;
c) visitor trends, use and problems; and
d) the current problem of poor concessions.

Another significant feature of the 1949 master plan Development Outline is the first known, detailed analysis of the monument's interpretive themes. These themes, in order, are:

1) geology and paleontology;

4 1949 Development Outline, 4
2) archeology;
3) history; and
4) National Park Service purpose and story.

Future personnel needs listed include a permanent superintendent, ranger, and a maintenance man to be supplemented during the summer by seasonal rangers, naturalists, and day laborers. The only usable building was the Chesnut property, since the CCC ranger station was without water and a finished interior.

Attached to the 1949 development outline is a rough draft of a fire protection plan, which gives detailed information on the current roads and trails, future construction needs, and contemporary tree, insect, and grazing control measures.

This document is an excellent source for establishing Capitol Reef's themes, problems, and anticipated needs immediately prior to its official activation in 1950.

Master Plan And Development Outline - December 1953

Document found in:
1. RG 79, Accession 79-67A-337, Container 919498, Box 1, File D18, NA-Denver.
2. Administrative History Notes and Files (partial copy).

The 1953 master plan was written by Charles Kelly, in part to clear up deficiencies in the 1949 plan. Yet, in many instances, virtually the same data are found here as in the 1949 master plan and development outline. The 1953 master plan narrative has four sections: an introduction, general information, detailed examinations of monument operations, and proposed developments.

The operations section includes an operations prospectus and detailed information on the current interpretive themes and practices, the state of forestry, soil and water conservation, and concessions. It is also apparent that by 1953 the dilemma over private inholdings at Fruita had not yet been resolved. The development section concentrates on current conditions and potential needs. Construction proposals include a water system and campground, a museum and office building, a utility area with associated buildings, and additional residences.

Special problems at the monument in 1953, listed in order, are:

a) uranium mining within the monument boundaries;
b) the location of headquarters and the need to purchase lands for future development; and
c) the current decision to maintain the private village of Fruita.
This is yet another valuable document. A complete copy should be placed in the park archives.

MISSION 66 PROSPECTUS - April 17, 1956

Likely prepared at Zion National Park.

Besides this final, director-approved draft, there are several preliminary drafts found alongside -- some with more details than others. There is also a general narrative prospectus, which lists some of the needs and proposed changes for Capitol Reef, found in Box 3, Folder 3, Capitol Reef Archives.

Since the final Mission 66 Prospectus submitted in April 1956 is the most detailed and only draft known to have been approved, it is the one that will be examined here. This document, related drafts and correspondence can be found in:

1. RG 79, Accession 79-67A-337, Container 919498, Box 1, File A9815, NA-Denver.
2. Administrative History Notes and Files (partial collection).

The Mission 66 Prospectus was the guiding document for changing Capitol Reef National Monument from a sleepy backroads curiosity to a fully functioning, increasingly popular unit of the national park system. Nevertheless, virtually all Mission 66 developments at Capitol Reef were delayed until the present highway through the Fremont Canyon was completed in 1962. In the six-year gap between prospectus and actual money allocation, some of the goals and specific plans were changed.

The document's statement of significance and the management and development theme stress the geologic magnificence and beauty of the Waterpocket Fold. Of secondary importance are the archeology, history, and flora and fauna. In 1956, National Park Service officials believed that the adventurous elite, which had always constituted the majority of visitors to the monument, would inevitably be joined by "less specialized" visitors, all staying for one to several days at a time. A significant problem noted in these introductory statements is the lack of a campground and other adequate visitor accommodations, better roads, trails, a visitor center, and other "assurances of health and bodily comfort." Another dilemma is the lack of level ground on which to build these accommodations. The prospectus also clearly states the inevitability of a paved road through the monument in the near future.

A proposed organization chart is included along with an appendix containing tables detailing the proposed phase in of new positions and associated costs in administration, protection, interpretation, and maintenance.

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5 Mission 66 Prospectus, April 1956, 2.
6 Ibid., 3.
Visitation by 1966 was projected to be 300,000 as opposed to the less than 20,000 visitors in 1956. Facilities needed to accommodate this dramatic increase included: a 50-car campground at Fruita (to be expanded later to 100 sites or supplemented by a 50-site campground at Pleasant Creek); the building of a visitor center; an expanded interpretive program; and the building of adequate maintenance facilities, park housing and improved roads and trails.

The recommended concessions policy was to prohibit additional overnight or motor tour concessions within the monument until 1966. Grocery and camping supplies, food and drink, and a gas station would be encouraged and handled through special-use permits. This concessions policy was to be re-evaluated in 1966.

There are two significant features of the Mission 66 Prospectus that forever changed management policies at Capitol Reef. One was the proposal to close Capitol Gorge to through traffic once the main highway was rerouted through the Fremont River canyon. The old highway would become a scenic drive designed to encourage visitors to spend more time within the monument.7

The other significant decision was to purchase all the private inholdings and associated water rights at Fruita and the Pleasant Creek properties adjacent to the monument boundary. The document also urged that all 1,900 acres of state land be exchanged as soon as possible. The main reason for this final decision to transfer Fruita from private to National Park Service control was the overriding need for land and water to accommodate rising visitation. Management of the orchards is never addressed.

Another proposal called for changing the western boundary to "legal subdivision lines," thereby removing uncertainty and conflicts associated with the current boundary along the ever-changing highway and, as a result, provide additional protection to the western viewscape.8

This is a crucial document in the management history of Capitol Reef National Monument and Park. This Mission 66 Prospectus provided the foundation and framework for bringing Capitol Reef National Monument into the modern era. Although some of the staffing and construction estimates proved incorrect, determinations to purchase Fruita and Pleasant Creek lands, adjust boundaries, and change visitor circulation patterns would drive park policies in the headquarters area for the next 40 years.

Mission 66 Associated Maps And Drawings - 1957-1966

Documents found in:
1. Drawer 9, Folders 2-5, Capitol Reef National Park Archives.

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7 Ibid., 12.
8 Land, water rights, and boundary adjustments information are provided on page 19.
Throughout the Mission 66 era, there were several different proposals for developing the Fruita area. These maps, drawings, and mylar overlays indicate up to eight campground loops covering all of the Gifford and Mulford properties, a visitor center on the site of the Capitol Reef Lodge, and various road realignments.

These drawings, dated 1957, 1958, 1959, 1962, 1964, along with the complete 1966 master plan, are excellent sources for researching Mission 66 Developments at Capitol Reef -- the most dramatic changes ever made within the monument or park.

Master Plan Narrative - Draft, July 27, 1961

This narrative re-emphasizes the policy statements first found in the Mission 66 Prospectus. The arguments for turning the old highway into a dead-end scenic drive and the need to purchase the private inholdings at Fruita are presented in greater detail. Other immediate and potential problems are also listed in this brief, five page narrative.

Master Plan Of Capitol Reef National Park - September 1964

This document helps place Capitol Reef developments and current and projected problems at a time when a majority of Mission 66 projects had been completed. The highway along the Fremont River was two years old; the visitor center, campground, and water treatment plant were nearly finished; and all but 14.83 acres (the Bird lodge and Gifford properties) had been purchased. There are excellent details concerning current accessibility to the area, population trends of the neighboring communities, and interesting descriptions of nearby features. The 1964 master plan describes the monument's negligible fire history, soils, dominant vegetation, common wildlife, and stream descriptions. It also provides visitor use comparisons between 1958 and 1963, showing dramatic increase due to the new, paved highway through the monument. Visitation in 1975 was estimated to be close
to 400,000. Yet, it was projected that only half of those would ever turn off the highway and take a closer look at the monument.

This document is useful in demonstrating management concerns as Mission 66 at the monument is winding down. The various routes of accessibility to the area and surrounding features are historically important but there is little here of significance to current or future park management policies.

Master Plans 1964-67

Document location -

1. Partial copies of 1964 Design Analysis and 1965 Management Program narratives are found in the Administrative History Notes and Files and in the notes of Kathy McKoy, historian from the Intermountain Regional Office (Colorado Plateau) and co-author of the 1993 Draft Cultural Landscape Report. The original source is not known.

2. The 1979 General Management Plan Task Directive states that the last approved master plan was submitted in 1967. Yet, there are no known copies in the Capitol Reef Archives, Technical Information Services documents or at the National Archives-Rocky Mountain Region in Denver, Colorado.

The 1964 design analysis chapter of the master plan, is a five-page outline of existing conditions; final Mission 66 construction plans for the visitor center, maintenance area and Capitol Gorge information and exhibit shelter; and various management concerns. Of note is the acknowledgment that the orchards must be maintained in order to retain water rights acquired as part of the purchase of the various inholdings.

The management program narrative is in Chapter 3 of a September 1965 master plan prepared by Superintendent William T. Krueger (but never approved by the regional director). This document is an extensive, 37-page examination of current conditions and perceived needs for better management of the monument's resources. Discussed are the needs to:

1) ensure adequate protection of the fragile biotic resources from arbitrary road, trail, and building construction;

2) control tent caterpillars, fall webworms, and grasshoppers in the Fruita area;

3) foster and maintain good relations with area stockmen;

4) maintain special-use permit for fruit orchards to continue vegetation of the Fruita area, provide traditional fruit-picking opportunities for local communities, and preserve at least a portion of Fruita for its "early pioneer atmosphere";

5) conduct more studies on what to do with deer, beaver, and other mammal overpopulation in the Fruita area;
6) work with upstream users of the Fremont River and Sulphur Creek to protect water quality;
7) work with other agencies to reduce soil erosion within and surrounding the monument;
8) expand both the Visitor Protection and Interpretive Divisions;
9) acquire both the Capitol Reef Lodge and Gifford Motel;
10) work with local communities to provide quality accommodations outside the monument boundaries, since none are to be built at Fruita;
11) provide more staff training, professional growth opportunities, and research of monument resources; and
12) construct a second four-unit seasonal apartment building and three permanent employee residences by 1975.

Overall, this document describes Capitol Reef's status toward the end of Mission 66 construction. Management was still adjusting to rapid changes caused by the purchase of inholdings, the construction of the Fremont River canyon highway and the increase in visitation over the previous five years.

Master Plan - December 1973

Prepared by The Environmental Associates: Architects Planners
Landscape Architects, Salt Lake City, Utah

Document found in:
1. Document 158 D-9, TIC.
2. Copy in Administrative History Notes and Files.

Submitted two years after Capitol Reef became a national park, this contracted master plan stressed transportation and other improvements needed to provide access and better management of park lands, now 600 percent larger than the old national monument. While the specific objections to this document are unknown, it was considered inadequate and was not approved by the National Park Service.9

The 38-page master plan narrative, which contains many planning maps, is accompanied by a lengthy transportation study required by the park's enabling legislation.10 The descriptions of natural and cultural resources are brief and contain no new or in-depth information.

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10 See Chapter 16 for an analysis of this transportation study.
The 1973 Capitol Reef Master Plan emphasized "basic concepts to provide preservation and restoration of the natural ecological interrelationships and for a development scheme compatible with this theme as well as to serve the inspirational and recreational needs of a growing society."\footnote{1973 Master Plan, 20.}

The master plan proposes some interesting ideas, some of which have been instituted and some which have not. One proposal was to have two distinct districts in addition to the Fruita headquarters area. For the Fruita area, recommendations include:

a) gradually phasing out the campground once private facilities outside the park are built;
b) providing interpretation in a manner that encourages visitors to leave their cars; and
c) paving Scenic Drive from Fruita to Pleasant Creek, where an interpretation station would be built.

North District recommendations are to:

a) pave the Cathedral Valley and Hartnet roads and manage them as a one-way scenic loop drive;
b) build a ranger station and residences in upper Cathedral Valley;
c) acquire the water rights to Deep Creek so that the diversion north would be eliminated and wildlife can be reintroduced; and
d) manage the Deep Creek/Paradise Flats/Spring Canyon region as a primitive zone.

South District recommendations are to:

a) pave the Notom Road but keep the Burr Trail gravel and dirt;
b) close the Halls Creek jeep road, restore the vegetation where possible, and manage the area as a primitive zone;
c) build a ranger station and residences at the junction of the Burr Trail and the Notom Road;
d) construct interpretive trails in the vicinity of the Burr Trail; and
e) allow a utility corridor through Oak Creek Canyon.

General Management Objectives are to:

1) manage the entire park on a year-round basis;
2) centralize park management and administration;
3) institute a comprehensive research program for natural and cultural resources;
4) acquire all lands and interests concerning mining and grazing;
5) cooperate with the Bureau of Land Management in the grazing phaseout;
6) construct adequate housing for park employees;
7) design a "vigorous" public relations campaign with local communities; and
8) conduct a study to determine future concession potential.

Resource Management recommendations are to:
1) restore all land, wildlife, and vegetation to pre-settlement conditions, except in the
   Fruita area;
2) fence the park boundary;
3) manage Fruita as a pre-1930 living farm; and
4) manage the orchards "according to good agricultural practices" while retaining their
   historic appearance.\textsuperscript{12}

While this master plan was not approved by park managers and regional officials, there
are some thought-provoking ideas in this first comprehensive document after park creation
that should be examined by present and future managers at Capitol Reef.

\textit{Task Directive - General Management Plan - 1979}

Prepared by Rocky Mountain Region, Capitol Reef and Denver Service Center

Document found in Administrative History Notes and Files.

This task directive outlines the need for a general management plan for Capitol Reef since
the last significantly outdated master plan in 1967. This document is important because it
identifies specific management problems and lists the status of relevant documents.

Unbelievably, there was no park-wide management plan eight years after Capitol Reef
National Park was created. This task directive lists the numerous management problems
faced by an overwhelmed park staff with little long-term guidance.

These problems included:
1) doubling of visitation and 600 percent increase in land since the last master plan was
   approved;
2) inadequate camping space;
3) uncertainty surrounding proposed road improvements and realignments;
4) lack of adequate housing and maintenance facilities;

\textsuperscript{12} 1973 Capitol Reef Master Plan, 35.
5) an overcrowded visitor center too small to accommodate the increasing flow of tourists;
6) lack of information on floodplains;
7) uncertainty as to what to do with Sleeping Rainbow Ranch on Pleasant Creek, North and South District roads, and other possible facility developments in the more remote areas of the park; and
8) numerous resource management issues.

One reason mentioned for the lack of a master plan was the realization that the park's resources were largely unknown. Once a preliminary, "only partly successful" inventory was completed in 1975, funds were programmed but not given priority status until FY 81. This task directive also lists the scope of work, time tables, preliminary funding estimates, and staff responsibilities for that general management plan and associated environmental impact statement, statement of findings, and supplemental wilderness proposal to be completed by 1983.


Project Coordinator - Allen R. Hagood, Denver Service Center
Superintendent - Derek O. Hambly

Document found in:
2. Capitol Reef Unprocessed Archives.
3. Superintendent's Files.
4. Administrative History Notes and Files.

This is the final, director-approved draft that became the primary planning document for Capitol Reef National Park from 1982 through the late 1990s. After two years of analysis, scoping, public input, and writing, National Park Service officials determined to balance limited compromise of park resources with some upgrades in visitor facilities and accessibility. The preferred alternative will be the only section addressed in this study, since it is impossible to cover all the material in this document. However, the thorough information the study contains on existing developments, current and future management problems, various development alternatives, and the public response to them, are a valuable resource and should be given adequate attention by all current and incoming park managers.

Not all the preferred alternatives, which together formed Capitol Reef National Park's management plan, are listed here. Instead, only those items relevant in the 1990s will be
Headquarters District recommendations call for:
1) adding a two-story, 3,440-square-foot addition to the visitor center and an adjoining first aid building;
2) expanding visitor center parking by 10 spaces and realigning the entry road;
3) widening and paving the Goosenecks Overlook Road;
4) doubling the existing campground by adding a 50-site loop, a group site, and expanding the water/sewage system;
5) realigning the campground entrance, adding a 10-car trailhead parking area at the old entrance, building a two-mile loop trail from the campground to the visitor center, and relocating the amphitheater;
6) removing all lodge buildings, employee trailers, and the Sprang Cottage, and then rehabilitating these areas to a "pastoral scene";
7) building four duplexes and three additional seasonal apartments in the existing residence area and expanding the water/sewage system accordingly; and
8) retaining all existing roads, trails with the addition of nine wayside exhibits.

Pleasant Creek recommendations call for:
1) providing a 10-20 car parking and trailhead orientation area;
2) adding trails to Tantalus Flats, Oak Creek, and Sheets Gulch; and
3) providing a small corral and a two-site campground for equestrian use.

South District recommendations call for:
1) adding separate five-car parking and orientation pull-outs along the Notom Road at the Burro, Five Mile, Sheets, and Cottonwood drainages;
2) adding a one-mile trail from Bitter Creek Divide to Oyster Shell Reef;
3) closing the Upper Muley Twist road and constructing a new 2.5-mile gravel road to and a 15-car parking area at Strike Valley Overlook; and
4) building a ranger station and utility area at the bottom of Burr Trail and a primitive, 10-site campground and residence area at the top of Burr Trail.

The 1982 Capitol Reef General Management Plan specified that Burr Trail and Notom Road were not to be improved by the National Park Service. If state or county agencies proposed improvements, the National Park Service was to have a significant role in design and regulation of these roads. There were also to be no developments in Halls.
Creek. North Coleman Canyon was selected as a preferred utility corridor, rather than the Oak Creek Corridor proposed in the rejected 1973 master plan.\textsuperscript{13}

North District recommendations are to:

1) forego National Park Service upgrading of roads into the district, while retaining regulatory rights and design approval in the event of state or county improvements;

2) provide wayside exhibits at Gypsum Sinkhole and Glass Mountain but not provide additional parking;

3) provide a five-car parking area and route markings into North Cathedral Valley;

4) restrict camping to the existing Hartnet campground; and

5) prohibit any additional developments in the North District.

Also included in the 1982 Final Environmental Impact Statement/General Management Plan are:

1) a detailed analysis of the effects of this plan on the park's natural and cultural resources and the socioeconomic impact on the surrounding region; and

2) a Statement of Findings listing existing and proposed structures were within the 100- and 500-year floodplains.

Boundary adjustments were also proposed. The plan recommended that Blue Flats and mostly state-owned sections near Sandy Ranch and in the Circle Cliffs be excluded from the park. In exchange, the National Park Service desired tracts in the upper Sulphur Creek area and a small section including Glass Mountain. These boundary adjustments would also result in a natural boundary with the Circle Cliffs. These adjustments were countered by proposals from the Bureau of Land Management and Wayne and Garfield County officials. Since those counter proposals called for transferring a much larger amount of park land over to the BLM, they were totally unacceptable to National Park Service officials. In the end, the 1982 boundary proposal was dropped altogether.\textsuperscript{14}

As regional officials and Capitol Reef management continue the process toward a new general management plan in 1996, this 1982 document should prove valuable. There is no question that this document is now outdated. Yet, it did provide a useful, and desperately needed planning focus for Capitol Reef National Park.

\textsuperscript{13} See Chapter 16 for details on utility corridors.

\textsuperscript{14} See Chapter 12 for more details on this boundary proposal.
Statements For Management - August 1977; May 1979; September 1981; December 1984; July 1987; October 1989

Documents found in:
2. SFMs for 1984-1989 found in Superintendent’s Files.
3. SFMs for 1984-1989 found in Administrative History Notes and Files.

These documents give excellent details on current management concerns, planning document status, natural and cultural resource research and threats, land use trends, visitor use analysis, and cooperative agreements and special-use permits. They have proven extremely helpful in the compilation of Capitol Reef’s administrative history. They are a source of information for anyone researching past resource issues or changing management concerns over the past 20 years.


Prepared by Rocky Mountain Regional Office and Capitol Reef staff, Christopher C. Marvel, Team Captain

Recommended by Superintendent Charles V. Lundy

Document found in:
1. Capitol Reef Superintendent's Files.
2. Administrative History Notes and Files.

This is the proposal to draft a new general management plan/environmental impact statement, two development concept plans, and an interpretive prospectus, all to be completed by 1996. Included in this document are the time tables, issue identifications, applicable data, and funding and staffing requirements for this ambitious project that "will provide the National Park Service with direction for long-range management, development, and use of Capitol Reef National Park." 15

This task directive provides the latest information on current resources, water rights, rights-of-way, and other administrative and resource concerns. Until the 1998 general management plan is completed, this will likely be the most up-to-date document concerning park issues.

<p><strong>WILDERNESS AND LAND PROTECTION PLANS</strong></p>

<p><strong>Wilderness Proposal - 1967</strong></p>

<p>Document found in:</p>

1. Box 2, Folders 3-4, 8-12, Capitol Reef Archives.

2. Associated maps, Box 2, Folders 9 and 12, Drawer 9, Folder 4, Drawer 11, folders 4-6, Capitol Reef Archives.

3. Administrative History Notes and Files (partial copy).

According to the requirements of the 1964 Wilderness Act, all areas of the national park system with more than 5,000 contiguous roadless acres were to be evaluated for wilderness designation. The first draft wilderness proposal for Capitol Reef National Monument was submitted for public review in September 1967 (Box 2, Folder 7 - Capitol Reef Archives); public hearings were held in Loa, Utah on December 12, 1967 (Box 2, Folder 3-4); and written comments were also accepted at that time (Box 2, Folder 8-11). A formal wilderness recommendation was not submitted to Congress until April 1971. Of course, by this time President Lyndon Johnson had already expanded Capitol Reef National Monument, and enabling legislation for a national park was well on its way toward passage. This made any wilderness recommendations for the old monument obsolete.

The initial proposal called for five units within the old monument boundaries. The Fremont, Grand Wash, Capitol Gorge, and Pleasant Creek canyons and a 1/8-mile buffer zone surrounding the entire monument formed the basic boundaries of the wilderness units. The December hearing transcript and the hundreds of letters responding to these recommendations demonstrate how Capitol Reef managers were placed in the difficult position between local resident desires for little to no wilderness and environmentalist's pressures for more wilderness.

The most contentious discussions concerned the 1/8 mile buffer that National Park Service officials believed "the minimum essential for present and future management needs"<sup>16</sup> and the exclusion of the bisecting canyons. These canyons were omitted from the wilderness plans since they contained roads, were used as stock driveways, or both. The environmentalists believed that these driveways and grazing uses were not incompatible with wilderness. They also believed that the buffer zone, proposed in other contemporary National Park Service wilderness plans, was an unnecessary limit. At the December hearings, and through later correspondence, local ranchers were promised that the stock driveways would be guaranteed. The 1/8-mile buffer was never specifically addressed in that later correspondence.

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These documents pertaining to the 1967 Wilderness Proposal are, of course, outdated by the expansion of the monument in 1969 and the creation of the national park in 1971. Yet, the testimony and written statements, as well as the various detailed maps of the proposal, give an excellent idea of the local, conservationists, and National Park Service concepts of wilderness in the late 1960s.

**Proposed Wilderness: Draft Environmental Statement - June 1974**

Prepared by Denver Service Center, Allen R. Hagood, project coordinator.

Document found in:

2. Administrative History Notes and Files

This is a detailed, well-written account of Capitol Reef National Park's numerous resource issues that would have an impact on any proposed wilderness. The wilderness plan, examined more thoroughly in the September 1973 "Wilderness Study, Capitol Reef National Park," breaks the park down into nine proposed units covering 181,230 acres (or 75 percent) of Capitol Reef. In this document, the nine units are only summarily discussed.

Most of this draft environmental statement is concerned with a thorough analysis of existing developments, the natural environment, the region's economy, and past, present, and future land use concerns. The resource descriptions and supplemental maps provide an excellent source for general information about resource conflicts that park managers have faced since the national park was established in 1971. Notably, this draft environmental impact statement was withdrawn in 1983, when preliminary proposals to increase the wilderness to 91 percent of park lands were introduced. The 1998 general management plan is to address the need for another formal wilderness proposal.

**Wilderness Recommendation - November 1974**

Document found in:

2. Capitol Reef Superintendent's Files.
3. Capitol Reef Unprocessed Archives.

This is the last formal wilderness proposal submitted to Congress for Capitol Reef National Park. The document includes the formal recommendation for wilderness, the December 1973 Draft Wilderness Study, public hearing and written response analysis, the
views of other government agencies, and a map of Capitol Reef's wilderness.\textsuperscript{17} This wilderness proposal was submitted to Congress with other area parks in March 1978. No other record has been found that could determine why the wilderness recommendation was never brought to a vote. In 1984, the wilderness recommendation was revised upward to include almost 90 percent of the park. Yet, the Department of the Interior did not submit this plan to Congress. In lieu of formal congressional approval, the entire area proposed for wilderness status in 1984 is, as of 1994, treated as wilderness in all park management decisions.

The analysis of public hearings and written responses contains a summary table of the 300 responses and a general description of views by conservationists, local interest groups, and other agencies. There are several letters included in this section that will give park managers a good idea of the various national and local viewpoints toward wilderness management at Capitol Reef National Park. Perhaps the most important response was from Utah Governor Calvin L. Rampton's office, which opposed any official wilderness designation for the Utah parks until the completion of a comprehensive master plan that addressed local considerations.\textsuperscript{18}

As the last extensive wilderness recommendation, this document is important in understanding what areas are considered of wilderness quality, and varied reactions to proposed wilderness in the park. The document is, of course, somewhat dated, and consequently, many of the resource conflicts have been altered in some way. Thus, while useful, this document should be used to supplement the 1982 Capitol Reef General Management Plan and the statements for management throughout the rest of the 1980s.

\textit{Land Protection Plan - 28 March 1984}

Recommended by Superintendent Robert W. Reynolds

Approved by Acting Regional Director Jack W. Neckels

Document found in Capitol Reef Superintendent's Files.\textsuperscript{19}

As the first land protection plan for Capitol Reef National Park, this is an interesting document pertaining to the contemporary landownership status for the park and alternatives for acquiring non-federal lands within Capitol Reef.

\textsuperscript{17} The complete transcript of the public hearing on August 1974 in Loa and Salt Lake City is found in Document 158-D-52, TIC.

\textsuperscript{18} Wilderness Recommendation, November 1974, 60-61; also see the negative response from the State Planning Coordinator on pages 62-64.

\textsuperscript{19} According to Richard Young, Rocky Mountain Region Chief of Land Resources, the 1984 Land Protection Plan was updated with no significant changes in January 1986 and June 1988; see Document 158-D-71, TIC.
Included in the 1984 Land Protection Plan is a summary list of current ownership which included 19,000 acres of state sections, the .42-acre tract in Fruita owned by the descendants of Amasa Pierce, funding status, and acquisition priorities. There is also a map showing the location of non-federal land tracts and a table of acquisitions to date.

The potential conflicts over the state sections and a brief description of the Pierce-owned tract in Fruita are found in the document, as are the various alternatives for acquiring these lands. The final recommendation was to leave tract 01-161, the private .42-acre plot, alone for the time being, but to consider eventual "friendly condemnation." State lands were to be exchanged through the Project Bold program, which was never enacted. A second alternative was to exchange the state lands for federal lands in other areas of Utah through the Federal Land Policy Management Act of 1976. Mineral leases were to be left alone, since their monetary value was uncertain. Grazing was also to be only monitored for the time being.

Although somewhat dated, this document contains some useful information on landownership during the 1980s.

**NATURAL RESOURCES**

This section will address only the more general resource management plans. The more specific issue documents, such as grazing, transportation, etc., are mentioned and often analyzed within the appropriate chapters of this Capitol Reef National Park administrative history.

*Natural Resource Management Plan and Finding of No Significant Impact - June 1984*

Prepared by Norman Henderson, Resource Management Specialist

also contains Backcountry Management Plan - February 1978

Document found in:

2. Capitol Reef Superintendent’s Files.
3. Administrative History Notes and Files (partial).

This guiding document for resource management at Capitol Reef provides an overview and needs statement, projected funding needs, and 30 natural resource project statements. There is also a backcountry management plan, dated February 1978.

As expected, the dominant concern of the resource management division in 1984 was grazing. One-third of the project statements are directly concerned with grazing. The second most important issue is water quality, to which five projects are dedicated. Various
Fruita management concerns are found in at least four project statements and air quality in three. Other concerns are rare flora and fauna surveys and exotic plant controls.

The backcountry management plan set the guidelines for controlling backcountry use so as to preserve the wilderness quality and visitor experience. In 1984, the only designated campground outside Fruita was the primitive, five-site Cedar Mesa campground. A similar campground was being planned for the North District. Backcountry permits were required for overnight stays, and any camping was to be 1/2 mile from maintained roads, developed areas, or trails, and 100 yards from any water source. Group size in 1984 was limited to 20 persons. Backcountry campers were requested, but not required, to use only stoves rather than building fires. Water purification was recommended, and no soaps or detergents were allowed. Construction of backcountry trails was not considered necessary. Instead, handout maps with route descriptions were to be made available at trailheads.

Wildfires were to be controlled within Capitol Reef "to prevent unacceptable loss of wilderness values, loss of life, damage to property, and the spread of wildfire" to lands outside the park.20 These resource management and backcountry management plans were important first steps in documenting the needs and management objectives for Capitol Reef's invaluable natural resources during the 1980s. While now mostly outdated, the information in these documents gives an excellent idea of earlier resource concerns, many of which will involve park management for many years to come.

Final Resources Management Plan - June 1993
Prepared by Norman Henderson, Chief of Resource Management & Science
Recommended by Charles V. Lundy, Superintendent

Document found in:
1. Capitol Reef Superintendent's Files.
3. Administrative History Notes and Files (partial copy).

As the most current management plan for the natural and cultural resources of Capitol Reef National Park, this is an invaluable document for all current and future park managers. Included in this final plan are 55 detailed project statements (up from 30 in 1984), resource management issues and objectives, and division personnel and funding.

Current natural resource issues include:
1) air quality;

2) hazardous material accumulation and transport;
3) exotic plants - specifically tamarisk, Russian olive, Russian thistle and cheatgrass;
4) pest species - skunks, marmots, deer, raccoons, beaver, tent caterpillars, and orchard invertebrates;
5) soil erosion;
6) rare plant, animal, and bird surveying and monitoring;
7) wetlands;
8) wilderness - road and rights-of-way boundaries unclear;
9) water quality and the threats from upstream impoundments;
10) grazing - its continued impact on all park resources;
11) Fruita fields and orchards;
12) road construction - specifically the Burr Trail;
13) power line right-of-way and construction;
14) Henry Mountain bison control; and
15) oil and gas leases along park boundaries.

Cultural Resource concerns include:
1) vulnerability and incomplete documentation of archeological resources in developed and undeveloped areas;
2) the need for ethnographic overviews and surveys;
3) museum collection - lack of space, division of collection for storage purposes; and
4) cultural landscape nomination.

This is a detailed, comprehensive, and well-organized document that not only structures management objectives but gives a good background on the numerous issues facing Capitol Reef National Park as it enters the twenty-first century. Because of the excellent background information on a full range of resource issues facing Capitol Reef National Park, the narrative portions of this document should be made available to all park employees.

**CULTURAL RESOURCES**

This section lists the general or multiple-topic cultural resource management documents. Briefly mentioned are the planning documents concerned with the overall Fruita cultural landscape, since it has been a primary concern during the writing of this administrative history. The more specific documents, such as the Fruita Schoolhouse Furnishing Studies,
and the numerous archeological surveys, will not be addressed here. Please see Appendix B for a complete list of these documents, on file at the Technical Information Center, Denver, Colorado.

The Capitol Reef Archives, and specifically Box 5, contain primary and secondary information on the history of the Fruita area, including earlier National Historic Register submittals. Other cultural resource documents concerning the archeology and history in the park can be found in the Capitol Reef Resource Management Division files.

*Cultural Resources Management Plan: Fruita Living Community Management Plan - Draft 10 November 1975*


Document found in:
1. Box 5, Folder 9A, Capitol Reef Archives.
2. Orchard Notebook, Capitol Reef Unprocessed Archives.
3. Administrative History Notes and Files.

While Hoddenbach was the first natural resource specialist hired at Capitol Reef, his interest in the history of Fruita led him to research the area as had no one else before him -- including Charles Kelly. His interviews and primary research are included in his notes now preserved in the Capitol Reef Archives.

This plan to reconstruct a "Fruita Living Community" was an ambitious attempt to combine living history, orchard and historic structure maintenance, possible reconstruction of previously removed homes, and integration of historic natural flora and fauna.

The Fruita Living Community Management Plan foresees some of the recommendations of the 1993 Draft Cultural Landscape Report. While the plan's ambitious goals most likely doomed its approval in 1975, it should, nonetheless, be read by those senior management team members concerned with the management, preservation, and interpretation of the Fruita Rural Historic District.

*Historic Agricultural Area Management Plan - February 1979*

Prepared by Derek O. Hambly, Superintendent

Approved by James B. Thompson, Regional Director

Document found in:
2. Capitol Reef Historic Superintendent’s Files.
3. Administrative History Notes and Files.
This document became the first approved planning document specifically addressing the Fruita historic scene. Earlier efforts, such as those of Kelly and Hoddenbach, had succeeded in documenting the historic quality of the Fruita area. This document built upon those earlier efforts by proposing management guidelines preserving the remaining orchards and structures within the Fruita area.

This Historic Agricultural Area Management Plan was a revision of an earlier, controversial draft. The earlier proposal called for dramatically reducing the amount of fruit trees so as to more closely resemble Fruita in 1930s. This plan was met with almost unanimous disapproval at a local hearing and was thus revised to this 1979 approved plan.\(^{21}\)

Considerations listed are:

1) Maintenance Objectives. The objectives are to maintain the integrity of the historic scene, interpret the significance of the period 1920-30 when Fruita was determined to be at its peak, and provide for public fruit harvests.

2) Adverse Influences. These include modern National Park Service developments, the old Capitol Reef Lodge, paved roads, and utility lines.

3) Administrative Constraints. Constraints include non-transferable water rights and National Register nomination of the historic district and archeological sites.

Park personnel had determined through personal interviews with former Fruita residents and by examining old photographs that the contemporary, extensive orchards originated in the 1940s. Previous estimates had calculated that there had been about 1,500 trees in the desired 1930s timeframe. The proposal to reduce the amount of trees from the 2,563 in 1978 to only 1,500 trees was extremely unpopular. The goal then was to interpret the 1930s while maintaining the existing number of trees. From this point on, the interpretive path diverges, so as to please both management and public needs. Managers, for instance, wanted to reduce the number of trees to reduce orchard-related maintenance. This position was altered to keep the tree count the same while gradually replacing multiple-fruit orchards with single-variety ones. Local desires for fruit quality and quantity would also be met through this option. The problem was that this management tack would be incongruent with attempts to restore the area to its 1930s condition. To balance out these contradictions Superintendent Hambly proposed the following plan in which the Fruita area would be divided into three zones.

1) The Development Subzone would contain National Park Service developments such as the headquarters facilities and park housing.

2) The Historic Farming Subzone would include the Gifford farm, the Brimhall place and the Fruita school. The Gifford farm was to be a living history exhibit and the Fruita school and orchard would also interpret historic Fruita.

\(^{21}\) For a more in-depth history of Fruita management policies, see Chapter 14.
3) The Greenbelt Subzone would consist of eight orchards interspersed with pastures. The orchards would be gradually restructured to single-variety.

This Historic Agricultural Area Management Plan is important for two reasons. It was created in the midst of controversy, which forced park managers to realize how important Fruita was to the local communities. This document also provides the first real management policies for dealing with the Fruita Historic Area. This plan only offered general guidelines as opposed to detailed, day-to-day policies. It also never really answered the troubling question of how to interpret Fruita as if it were in the 1930s, while at the same time increasingly moving toward modern orchard practices. Yet, the document at least acknowledged the need to preserve Fruita as an historic agricultural landscape.

*Cultural Resources Management Plan - June 1984*

Prepared by George E. Davidson, Chief of Interpretation

Superintendent - Derek O. Hambly

Approved by acting Regional Director Jack W. Neckels

Document found in:

1. Capitol Reef Superintendent's Files.
2. Administrative History Notes and Files.

This is the first comprehensive document detailing the cultural resource themes, management policies and constraints, museum and archival collections, history of archeological research, list of historic structures, and cultural resource management problems and selected alternatives.

The cultural resource themes identified were:

1) prehistoric people;
2) closing of the frontier (1880s exploration and settlement);
3) cultural and religious minorities (1895-1937 Fruita); and
4) the Civilian Conservation Corps.

Management policies and constraints include all the pertinent interpretations and compliance regulations of current National Park Service policy and historic preservation acts. The museum and archival descriptions give a good idea of the state of the park collections in the mid-1980s. The cultural resource problem assessments and alternatives concluded that the following steps were to be taken.

1) An archeological survey was needed for the entire park. Most urgent was a survey of the southwest side of the park, because of the threat at that time from mineral exploration. A complete photographic survey of rock art within Capitol Reef National Park was also recommended as soon as possible.
2) Professionally engineered maintenance plans were needed for the various historic structures in the Fruita area, as was professional guidance on managing the park museum collections.

3) A comprehensive oral history program would be instituted so as to gain more information about Fruita's history.

4) The park staff was to prepare a Historic Scene Enhancement Plan so as to deal with the disharmony between modern, National Park Service developments and historic Fruita.

5) A proposal to write an administrative history was included but not approved by Acting Regional Director Neckels.

As the first and only cultural resource plan approved by the regional office, this is a valuable document for all park managers. While many of the details are either outdated or difficult to follow, the numerous controlling policies on cultural resources should be known by present and future managers. It is also interesting to compare the status of cultural resource management in 1984 with the cultural landscape reports and annual interpretive plans of the early 1990s.

*Orchard Management Plan - June 1988*

Prepared by Chief Ranger Noel Poe

Superintendent - Martin C. Ott

Document found in:

2. Capitol Reef Superintendent’s Files.
3. Administrative History Notes and Files.

The 1988 orchard management plan was a basic update of the 1979 Historic Agricultural Area Management Plan, although it was more specifically concerned with the fruit trees as opposed to the entire historic landscape. This new plan considered a potential reduction in orchard budget and personnel and greater flexibility in satisfying both fruit harvesters and park management.

The 1988 orchard plan would be fundamentally guided by the desire to preserve the Fruita area as a historic cultural district while at the same time providing fruit in as prudent a manner as possible. To accomplish these goals, the following guidelines were issued.

1) The 1930s landscape would be approximated by maintaining the same percentages of the Fruita landscape in orchard and fields, as opposed to maintaining the same tree count. For example, so long as the percentage of trees to pasture was kept at 60 percent orchards and 40 percent fields, that would be in keeping with historic photographic analysis of 1930s Fruita.
2) The optimum number of trees should continue to be 2,500. Single variety, or block, orchards would be planted for the majority of new orchards. No trees would be taken out unless they are no longer producing. To counter this modern look, there would be at least one, and potentially three historic, multiple-fruit orchards.

Other guidelines issued concerned pruning, irrigation and the price and methods of "U-Pick" fruit, pest management, cover crops, and orchard names.

This is a usable document for park managers because it provides detailed structure while at the same time giving a certain amount of flexibility to orchard management.

*Capitol Reef National Park: A Historic Resource Study - June 1992*


Document found in:

1. Capitol Reef Superintendent's Files.
2. Administrative History Notes and Files.
3. Cultural Resources Management Files.
4. Capitol Reef Visitor Center Library.

This is a contracted historic survey of Capitol Reef National Park. It includes narrative and inventory forms for historic buildings and structures throughout the park. While the historic narrative and inventory forms were the most thorough and detailed in the park's history, there were numerous criticisms to these documents by Capitol Reef staff. Some of these objections pointed to mistakes on the inventory forms and complained that O'Bannon did not spend enough time at Capitol Reef. The most important objection, however, was that O'Bannon did not consider the Fruita landscape eligible for nomination to the National Register of Historic Places. In the researcher's judgment, the National Park Service's removal of buildings and Mission 66 developments had destroyed the historical integrity of the landscape.  

Regardless of these objections, O'Bannon's historic resource survey is the first researched history of Capitol Reef National Park. This well-written narrative does an excellent job of summarizing the area's prehistory, the history of Fruita and Pleasant Creek, and of grazing, mining, and National Park Service developments at Capitol Reef from 1937 to the early 1990s. The detailed descriptions of the early homesteads at Fruita have been particularly valuable references in the compilation of the Cultural Landscape Report and this administrative history. The footnotes provide additional sources of information, and there is also an excellent bibliography.

---

22 See Chapter 14 for more details on this issue.
This narrative history, along with the cultural landscape report listed below and this administrative history, should provide present and future managers valuable sources of information regarding the cultural resources at Capitol Reef National Park.


Document found in:
1. Capitol Reef Superintendent's Files.
2. Administrative History Notes and Files.

This survey report contains the inventory forms for 57 identified historic resources within Capitol Reef National Park. O'Bannon concluded that of these 57 resources, 22 appeared eligible for nomination to the National Register of Historic Places. These 22 were placed within the following historic contexts:

1. early exploration 1870-1885;
2. Mormon settlement and agriculture 1880-1937;
3. grazing 1880-1941;
4. mining 1880-1941; and

This survey has a well-written summary of the reasons for its findings, and includes tables listing the contributing or non-contributing status of each of the 57 identified resources.

While the conclusion that Fruita had lost its historic integrity has since been overturned, the individual survey forms should prove a valuable source not only for a multiple property nomination for the park but for added information on historic resources outside the Fruita area. It should be noted, however, that some of the inventoried resources have sketchy, occasionally inaccurate histories. Once the final multiple property nomination is written, that document will supersede much of O'Bannon's work.

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23 The 1941 date was the break-off since, to be eligible for the NHR, the resource should be 50 years old. The survey was completed in 1991.
Cultural Landscape Assessment: Fruita Rural Historic District - September 1992

Prepared by Cathy Gilbert, Historical Landscape Architect, Pacific West Region, and Kathleen L. McKoy, Historian, Intermountain (formerly Rocky Mountain) Region

Document found in:
2. Capitol Reef Superintendent's Files.
3. Administrative History Notes and Files.
4. Capitol Reef Visitor Center Library.
5. Resource Management Files.

The purpose of this document was to evaluate Fruita as an integrated system rather than as a collection of individual structures, as had been the case in the O'Bannon study. The author concluded that, while some aspects of the historic landscape had changed, "the large-scale patterns and relationships have a strong degree of integrity and contribute to the historic character, feeling, and association of the district as a whole." They therefore recommended that Fruita be nominated to the National Historic Register of Historic Places as the "Fruita Rural Historic District." After more than 50 years of struggle over what to do with Fruita, a workable policy decision had finally been reached.

This cultural landscape assessment includes photocopied historic photographs, excellent maps and sketches, and a narrative describing the significant contributing features to and contexts of this rural historic district. On page 44, there is a summary table of the contributing and non-contributing resources within the Fruita district. The last page contains a detailed fold-out map, which outlines the historic district and the locations of contributing structures.

Because of its brevity (less than 50 pages), readability, extremely useful information, and insightful policy recommendations, this document should be read by all park personnel -- especially those in the resource management, interpretation, and visitor protection divisions.


Prepared by Cathy Gilbert and Kathleen McKoy

Document found in:

1. Capitol Reef Superintendent’s Files.
2. Administrative History Notes and Files.

This document is a more detailed supplement to the cultural landscape assessment. The final, approved document will provide management with an excellent narrative history of Fruita, descriptions of existing conditions and recommendations for current care and future studies concerning the Fruita Rural Historic District.

This document has seven sections.

1) Introduction. Gives a brief historic overview, describes the purpose of the report and states the authors' methodology and scope.

2) Existing Conditions. Details the boundaries, context and description of the historic district as of 1993.

3) Landscape History. A thorough narrative history of the Fruita region from prehistoric occupation through Mormon settlement and agricultural practices, to the impact of National Park Service developments. The research for this section includes primary documents never cited before. The endnotes contain valuable sources for future reference.

4) Analysis and Evaluation. A specific examination of contexts used to evaluate the significance of the Fruita district. It includes an extremely valuable summary of cultural traditions at Fruita, and the most specific information for each orchard ever assembled in one document. There is a description of each contributing structure.

5) Recommendations. A valuable, policy-oriented section. This section stipulates exactly how the Fruita Rural Historic District should be managed. The recommendations fall into five categories: management concepts, vegetation, circulation, structures and small-scale features.

6) Appendices. Statement of significance, summary of management documents, pertinent Wayne County Tax Assessor records and land use summary, Fruita deed histories, list of classified structures, and a 1985 list of cultivated and ornamental trees and shrubs in Fruita.

7) Photographs and maps.

This is an organized, well-written document that finally gives park managers a workable framework from which to manage the entire Fruita area. The final publication should be extremely useful for all present and future park managers. This report should also be recommended reading for all park employees. After all, the idea is to regard the entire

---

Fruita district as a cohesive, interrelated historic zone. All day-to-day activity and long range planning will be coordinated by managers, but its significance should be appreciated by all personnel.

**INTERPRETATION**

Planning documents specifically related to the Division of Interpretation are rare. Besides the annual statements of interpretation, which have traditionally been only brief overviews of themes and objectives, there is only one interpretive prospectus, completed in 1964, and a brief interpretive plan prepared in 1978. These two documents will be discussed below, along with the 1994 Capitol Reef Annual Statement for Interpretation, which is far more detailed. For information on the status of interpretation at Capitol Reef National Park for the years not covered, please see the park master plans, general management plans, and statements for management, most of which carry some information on the current status and objectives of interpretation within the monument or park. The 1992 Task Directive for a general management plan also calls for an appended interpretive prospectus to be completed by 1996. This prospectus was initiated in 1996, and is still in progress as of 1998.

*Interpretive Prospectus - 1964*

Superintendent - William T. Krueger

Document found in:

1. Box 3, Folder 2, Capitol Reef Archives.
2. Administrative History Notes and Files.

The copy in the park archives is a draft copy. A final draft has not been located. Nevertheless, this is an important document since it describes the status and objectives of interpretation at Capitol Reef National Monument at the close of Mission 66 developments.

This draft document is 20 pages long and includes:

1) an analysis of visitor types and use patterns;
2) the interpretive themes (geology, biology, archeology and history);
3) the proposed function of visitor facilities such as roads, trails and interpretive buildings and shelters;
4) an outline of the interpretive program, including needed interpretive displays at the visitor center and a detailed list of proposed wayside exhibits, many of which were to have visitor counters;
5) bibliography (only nine sources pertaining to Capitol Reef); and
6) "Significant Resources and Values," a five-page narrative describing the unique significance of Capitol Reef to the visitor and the plan to use Scenic Drive and monument trails to attract visitors to turn off the main highway.

This is only a draft document, poorly organized and with much outdated information. It is really useful only for documenting the lack of interpretation at Capitol Reef in the mid-1960s.

Interpretive Plan - 1978
Superintendent - William F. Wallace
Document found in Document 158-D-11, TIC

This document has not been examined by the author, but a short summary is found in the notes of Kathy McKoy, historian for the Intermountain Region. Her notes indicate that this plan was relatively brief and contained little if any new information. According to McKoy, the exhibit themes listed included Fremont Indians, Mormon settlement, geology, and the role of water in a desert environment. Also mentioned were wayside exhibits such as the Fruita schoolhouse, pioneer orchards, mailbox trees, and Scenic Drive.

Annual Statement For Interpretation - Fiscal Year 1994
Prepared by Robert Mack, Assistant Chief Ranger, Interpretation
Superintendent - Charles V. Lundy
Document found in:
1. Capitol Reef Superintendent’s Files.
2. Administrative History Notes and Files.

Unlike many previous statements for interpretation, this one is a lengthy, detailed description of the current status, problems, and future objectives of Capitol Reef National Park's Division of Interpretation.

Included in this 1994 Annual Statement for Interpretation are:
1) updated interpretive themes and objectives;
2) bibliography of basic information and current status of planning documents;
3) descriptive inventory of interpretive facilities throughout the park;
4) detailed information on the current operations, visitor use statistics, individual service plans for each of the interpretive programs offered in the park, and a review of the past year's interpretive program (including visitor participation and the instituting of a new outdoor education/outreach program);
5) future plans, such as expansion of the outdoor education program to include more schools and local tourism operations, Harvest Homecoming craft demonstration, and the creation of a Junior Ranger program and park newspaper.

Because of its detailed descriptions of the interpretive program at Capitol Reef National Park, and the surprising lack of other related planning documents, this 1994 Annual Statement of Interpretation is a valuable resource document.

CONCLUSIONS

This has only been a brief summary of the more important planning documents pertaining to Capitol Reef National Monument and National Park. The purpose of this section is to give park managers a useable finding aid when these documents need to be consulted. If a document is not found in the above list, please check the bibliography of the appropriate special resource issue section. The author also recommends that this list be periodically updated.

As of this writing, Capitol Reef and regional personnel are in the midst of preparing a new series of planning documents to be finished by 1996. In this process, and in all future planning discussions, these past documents should be consulted. Park managers should understand why past planning attempts have either succeeded, failed or become lost in obscurity. Future management decisions must not be made in a historical vacuum.
APPENDIX
CAPITOL REEF NATIONAL PARK MANAGEMENT PERSONNEL

SUPERINTENDENTS¹

Charles Kelly (Custodian) 03/8/44 - 4/29/50
Charles Kelly (Act. Supt) 05/1/50 - 3/03/52
Charles Kelly 03/04/52 - 2/28/59
William T. Krueger 04/01/59 - 12/31/65
Harry P. Linder 01/02/66 - 1/28/67
Robert C. Heyder 06/11/67 - 4/05/69
Bert Speed (Act. Supt) 04/07/69 - 8/23/69
William F. Wallace 08/24/69 - 7/15/78
Derek O. Hambly 07/16/78 - 9/28/85
Robert W. Reynolds 09/01/85 - 4/11/87
Noel R. Poe (Act. Supt) 04/12/87 - 8/08/87
Martin C. Ott 08/16/87 - 8/11/90
William J. Pierce (Act. Supt) 08/12/90 - 1/12/91
Charles V. Lundy 01/13/91 - 11/07/98
Al Hendricks 11/08/98 -

CHIEF OF OPERATIONS

Robert Van Belle 12/96 -

### CHIEF RANGERS

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<tr>
<th>Name</th>
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<tbody>
<tr>
<td>Grant Clark (supervisory ranger)</td>
<td>11/57</td>
<td>08/81</td>
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<tr>
<td>Franklin Montford</td>
<td>03/64</td>
<td>02/67</td>
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<tr>
<td>Bert L. Speed</td>
<td>05/67</td>
<td>?</td>
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<tr>
<td>Jimmy Taylor</td>
<td>?</td>
<td>7/75</td>
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<tr>
<td>Richard A. Newgren</td>
<td>01/76</td>
<td>01/84</td>
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<tr>
<td>Noel R. Poe</td>
<td>09/84</td>
<td>?/88</td>
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<tr>
<td>Gordon Wissinger</td>
<td>02/89</td>
<td>09/91</td>
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<tr>
<td>Gordon Wissinger (Chief I &amp; VP)</td>
<td>09/91</td>
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<tr>
<td>Richard Nolan (Chief I &amp; VP)</td>
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<td>04/96</td>
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<tr>
<td>Thomas Cox (Chief V&amp;RP)</td>
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### ADMINISTRATIVE OFFICERS

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<tr>
<td>Paul C. Bennion (Admin Asst)</td>
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<td>Medardo Sanchez</td>
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<td>Peter Valora</td>
<td>7/65</td>
<td>11/66</td>
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<tr>
<td>Charles Buck</td>
<td>7/69?</td>
<td>7/72?</td>
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<tr>
<td>Eleanor Murphy (Admin Officer)</td>
<td>06/72?</td>
<td>01/80</td>
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<tr>
<td>Betty Readnour</td>
<td>03/80</td>
<td>03/82</td>
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<td>Maurine Cundick</td>
<td>07/82</td>
<td>01/85</td>
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<td>Norma Clark</td>
<td>02/85</td>
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<td>Machelle Frye</td>
<td>02/90</td>
<td>02/93</td>
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<tr>
<td>Robert Van Belle (Mgmt Asst)</td>
<td>11/93</td>
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<tr>
<td>Chris Zinda</td>
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<td>01/98</td>
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### MANAGEMENT ASSISTANTS

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<tr>
<td>George Davidson</td>
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<td>08/93</td>
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<tr>
<td>Robert Van Belle</td>
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<td>12/96</td>
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2 The rest of the management personnel information was taken from the Superintendent's Monthly and Annual Reports, park press releases, and compiled with the help of Capitol Reef National Park Administrative Technician Donita Pace and former secretary Afton Taylor.

3 Chief Ranger became Chief of Interpretation and Visitor Protection in September 1991.

4 George Davidson was transferred to Management Assistant in September 1991. Robert Van Belle was hired as Administrative Officer and was appointed Management Assistant upon Davidson's retirement.
NATURALIST/CHIEF OF INTERpretATION

Ralph Webb (Park Naturalist) 11/65 - ?
Donald Follows 11/68 - 02/70
Virgil Olson ?/70 - ?
Jay Cable ? - ?
Robert Reynolds (Chief of Interp) 05/76 - 08/79
George Davidson 01/80 - 09/91
Richard Nolan (Chief I & VP) 03/92 - 04/96
Thea Nordling (Chief of Interp) 06/96 -

CHIEF OF RESOURCE MANAGEMENT & SCIENCE

Gerrald Hoddenbach (Res. Biologist) ? /74 - 01/80
Cordell Roy 10/80 - 06/83
Norman Henderson 10/83 - 05/94
Thomas O. Clark 12/95 -

MAINTENANCE FOREMEN/FACILITY MANAGER

Bernard Tracy (Maint. Foreman) 01/63 - 10/68
Harold Scott ? - 05/70
Ray Smith ? - 04/71
Michael Murphy 06/72 - 01/80
Charles Blundell (Facil. Manager) ?/74 - 08/80
Gene Baldock 03/81 - 02/86
Loren Long, Jr. (Maint. Foreman) 04/87 - 07/87
Quinn Willis (Maint. Mech. Frmn) 10/87 - 04/96
Jerry Robker (Facility Manager) 07/93 - 12/96
Jerry Robker (Project Manager) 12/96 -
Robert Cox (Roads, Trial, & Landscape Maint. Leader) 10/95 -

Facilities Manager position was abolished after Gene Baldock left. Position was re-established with Jerry Robker in July 1993.
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