

UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Private Fuel Storage, a Limited Liability
Company;

(Independent Spent Fuel Storage
Installation).

Docket No. 72-22
November 18, 1998

**SOUTHERN UTAH WILDERNESS ALLIANCE'S REQUEST FOR HEARING
AND PETITION TO INTERVENE**

Petitioner, Southern Utah Wilderness Alliance (SUWA), by and through its counsel, Joro Walker and Richard Condit of the Land and Water Fund of the Rockies, 165 South Main Street, Salt Lake City, Utah 84111 and 2260 Baseline Road, Suite 200, Boulder CO 80302, respectively, in accordance with 10 C.F.R. § 2.714 of the Nuclear Regulatory Commissions ("NRC") regulations hereby submits the following **Request for Hearing** ("request") and **Petition to Intervene** ("petition"). In support of it's request and petition, SUWA states as follows:

I. Introduction

SUWA files this request and petition because its interests may be effected by this proceeding. Specifically, SUWA's interests would be effected by approval of Private Fuel

Storage's ("PFS") proposal to build the Low Corridor Rail Spur to transport high level nuclear waste from the Union Pacific main rail line at Low Junction to the Skull Valley Reservation in Utah. This proposal was part of a recent amendment to PFS's license application to possess high level spent fuel in an Independent Spent Fuel Storage Installation ("ISFSI") on the Skull Valley Reservation. License Application Amendment, August 28, 1998 ("Amendment"). This amendment, which was not published in the Federal Register, includes *inter alia*, as a preferred option, construction and operation of the Low Rail Spur.

The Low Rail Spur will traverse approximately 32 miles of undeveloped public lands administered by the Bureau of Land Management (BLM), including the northern section of the Cedar Mountains, an outstanding natural area identified by SUWA as possessing wilderness character and therefore suitable for wilderness designation under the Wilderness Act of 1964. The Low Rail Spur will entail construction of a right of way of 250 feet on each side of the railroad center line, *Amendment at Figure 4.5-6, Sheet 1*, and "clearing and grubbing activities for a width of approximately 50-ft." *Id.* at 3.2.1.5. Furthermore, "[t]o reduce the potential for increased range fires that may be caused by rail transport, the 40 ft wide rail spur corridor will be cleared of vegetation" *Id.* at 4.4-9. As this description of the proposed project indicates, the construction and operation of the Low Rail Spur and the clearing of the fire buffer zone will irreversibly impair the wilderness character of the North Cedar Mountains.

SUWA is a non-profit organization dedicated to identifying and protecting BLM roadless areas which possess wilderness character as defined by the Wilderness Act of 1964. SUWA

seeks to protect these lands in their present condition until Congress has the opportunity to designate them as wilderness, thus bestowing the added protections established by the Wilderness Act. As a result of this organizational mandate, SUWA has a profound interest in insuring that the Low Rail Spur does not adversely impact the North Cedar Mountain roadless area and therefore does not impair the wilderness character of the area.

II. Factual Background

A. Southern Utah Wilderness Alliance.

SUWA, a non-profit organization under 501(c)(3) of the Federal Tax Code, has a membership of 23,000 and a dozen staff in four Utah offices. The organization was founded in 1983 when the BLM refused to inventory the lands under its jurisdiction for wilderness character as required by the Wilderness Act of 1964, 16 U.S.C.A. §§ 1131-36, and the Federal Land Policy and Management Act of 1976 (FLPMA), 43 U.S.C.A. §§ 1701-84. When the BLM finally conducted the inventory, SUWA determined that the agency had not complied with FLPMA and the Wilderness Act in that the BLM had failed to identify millions of acres of public lands worthy of wilderness protection.

In response to the BLM's failed wilderness survey, SUWA conducted its own inventory of BLM lands for wilderness character. SUWA subsequently developed the Citizens Proposal which sought designation of almost six million acres of BLM lands as wilderness. This proposal is the basis for legislation currently pending in the United States House of Representatives (H.R.

1500) and the Senate (S. 773) which would protect all the lands in the proposal under the Wilderness Act of 1964. This legislation now has approximately 147 co-sponsors among House and Senate members.

Recently, SUWA and the Utah Wilderness Coalition (UWC) decided to update their inventory of BLM lands. SUWA initiated this effort to: 1) obtain thorough, accurate data to establish which BLM lands qualified for wilderness designation; 2) exclude areas that once, but no longer, qualified as wilderness; and 3) insure that any resulting wilderness proposal fully represented Utah's biological richness and geographic diversity.

To this end, SUWA and the UWC relied on the work of several staff, 250 trained and carefully supervised volunteers, and new mapping technology to generate a precise inventory of all BLM lands which qualify for wilderness under the Wilderness Act. Using the BLM's own criteria for wilderness and on the basis of ground photo documentation, field surveys and notes, aerial photographs, agency and state maps, SUWA and the UWC were able to establish with certainty which BLM lands were suitable for wilderness designation.

The groups then widely publicized the results of the reinventory to the public. The event generated a great deal of media coverage and was taken seriously by the government and the public. At the same time, polls demonstrated that support for protecting large tracts of additional wilderness in Utah is at an all time high — the average respondent polled favored protection of at least nine million acres. See Articles related to SUWA and UWC's wilderness reinventory announcement and reactions, attached as Exhibit 1.

B. Status of BLM Wilderness in Utah.

Importantly, Congress has not yet designated any wilderness on BLM lands in Utah and has never had the opportunity to determine the suitability of any BLM lands in Utah for wilderness protection. In addition, after admitting the inadequacies of its previous inventory, BLM is now undertaking a new survey of its lands for wilderness character. BLM's decision to reinventory its lands was challenged in court, but was recently upheld by the Tenth Circuit Court of Appeals. That BLM is undertaking a new wilderness inventory and Congress has yet to designate BLM wilderness in Utah underscores the importance of SUWA's mission to protect areas possessing wilderness character from impairment until the mandate of the Wilderness Act is fulfilled.

C. The Inventory Process and North Cedar Mountains

The reinventory process undertaken by SUWA and the UWC identified the North Cedar Mountains as an area possessing wilderness character. See, Map -- The Impacts of the Low rail spur on the North Cedar Mountains Roadless area (hereafter "North Cedar Mountains Map"), attached as Exhibit 2. As a result, SUWA included the North Cedar Mountains in its 1998 Citizens' Wilderness Reinventory, which specifies all the BLM lands in Utah which qualify for wilderness designation. SUWA and the UWC will be engaged in educating members of Congress and encouraging passage of Federal legislation that will designate all the lands in the 1998 reinventory as wilderness. Until then, SUWA will take all necessary steps to preserve these lands, including the North Cedar Mountains, in their current state and protect them from any

development or other impacts which would disqualify them for wilderness designation.

To conduct its reinventory, SUWA relied on FLPMA, the BLM's Wilderness Inventory Handbook and the Forest Service Handbook, section 1909.12, 7.11a. (Importantly, both agencies are interpreting the same statutory language when determining the suitability of an area for wilderness designation). These statutes and regulations provide definitions of "roadless," "substantially unnoticeable" impacts and other criteria necessary for determining the wilderness character of particular lands pursuant to the Wilderness Act. Essentially, large tracts of roadless public lands, where human impacts are substantially unnoticeable qualify for wilderness designation and must be determined as such by the BLM. See, Wilderness Act, 16 U.S.C.A. § 1131(c); FLMPA, 43 U.S.C.A. § 1782 (requiring BLM to review its lands for wilderness designation).

With this criteria as a basis, SUWA and the UWC conducted its reinventory field work in several stages. Prior to the actual field work, staff gathered as much information as possible about each large potential wilderness area. Staff modified United States Geological Survey (USGS) 7.5 minute scale maps with land ownership information and cross-checked the modifications with BLM's land status plats. The staff then consulted recent aerial photographs of the area to locate impacts not already on the USGS maps. Aerial maps proved to be a very reliable indicators of impacts, which, in a fragile desert environment, are easily identified from above. Affidavit of Jim Catlin, ¶ 10, attached as Exhibit 3.

Next, carefully screened and trained volunteers and staff conducted field work to verify

map information. Field workers traveled the outer boundary of each potential wilderness area, taking frequent photographs of impacts to the land. These workers traveled the length of any intrusions (and any branches of intrusions) entering into a roadless area. Any impacts were photographed and these photographs linked to maps. As a result of this work, each roadless area was further documented as such by field notes and photographs (40,000 to 50,000 photographs in all). Id. ¶ 11-12.

The completed field work was reviewed by full time inventory specialists. If the review staff discovered gaps or inconsistencies in the field work, they would revisit the site, several times if necessary, to complete field checks. Id. ¶ 13. The review team also gathered additional information, including off-road vehicle routes, mineral deposits and grazing uses. On the basis of maps, field work and any additional information, a preliminary boundary recommendation was made. This recommendation was, in turn, reviewed and fine-tuned by the technical review team (TRT), comprised of four individuals who critiqued all preliminary recommendations for consistency and integrity. The TRT adopted stricter wilderness identification guidelines than the BLM so that the resulting boundaries would be above challenge. The boundary specifications that resulted from TRT review were then digitized into a Geographic Information System computer data base along with a written detailed description of the boundary. Because one of the goals of the 1998 inventory process was to use wilderness designation as a means to protect biological diversity, Wilderness Act, 16 U.S.C.A. § 1131(3)(4), the TRT, in consultation with biologists, gave priority to areas containing large elevation gradients, large complexes on

contiguous roadless areas, and riparian areas.

The inventory of the North Cedar Mountains area was conducted according to this standard procedure. Inventory staff spent approximately 10 hours preparing maps for field survey work, which included review of aerial photographs. The area was then surveyed by a volunteer who took field notes describing each of the 24 pictures linked to USGS maps. Inventory staff members (one of whom was a member of the TRT) revisited the site and took 38 more photographs, which were also described in field notes and linked to maps. The TRT then used this information to determine the boundaries of the proposed wilderness area depicted on the North Cedar Mountains Map.

D. The Low Rail Spur

As indicated above, the Low Rail Spur will traverse approximately 32 miles of undeveloped public lands administered by the Bureau of Land Management (BLM), including the North Cedar Mountains roadless area, identified by SUWA as suitable for wilderness designation under the Wilderness Act of 1964. The relation of the rail spur to the North Cedar Mountains roadless area was determined by digitizing the alignment of the spur onto a map delineating the boundaries of the roadless area. See North Cedar Mountains Map.

If constructed pursuant to the PFS amendment, the Low Rail Spur will significantly intrude into the North Cedar Mountain roadless area so that it will no longer be an area which "generally appears to have been affected primarily by the forces of nature, with the imprint of [human] work substantially unnoticeable; . . ." Wilderness Act, 16 U.S.C.A. § 1131(c)(1). In

addition, the operation of the rail spur will significantly intrude upon the areas currently offering "outstanding opportunities for solitude. . . ." *Id.*, § 1131(c)(2). Finally, the construction and operation of the rail spur will have adverse impacts on the area's wildlife and plant life, values which are essential to the ecological health of the area. *Id.*, § 1131(c)(4).

III. REQUEST FOR HEARING AND PETITION TO INTERVENE

Based on SUWA's organizational mandate to protect potential wilderness areas from impairment and the threat posed by the Low Rail Spur to the North Cedar Mountains roadless area, SUWA is entitled to participate and have its contentions addressed in this proceeding as it deals with the Low Rail Spur. Examination of the relevant Nuclear Regulatory Commission (NRC) regulations confirms this conclusion.

Any person whose interest may be effected by a proceeding may file a petition to intervene. In a matter such as this one, noticed pursuant to 10 C.F.R. § 2.105, any potentially effected person may also request a hearing. Where a petitioner does not file a petition and request within the time allotted in the notice of hearing, it may do so after that time if the balancing of several factors weighs in favor of the request. As demonstrated below, SUWA qualifies as an intervenor in this case and its petition and request should be accepted at this time.

A. A Balancing of the Relevant Factors Favors Consideration of SUWA's Petition.

For this petition to be accepted for consideration, SUWA must demonstrate that a balancing of the five factors set forth in 10 C.F.R. § 2.714(a)(1)(i)-(v) support accepting its petition. Those factors include: (1) good cause, if any, for failure to file on time; (2) the

availability of other means whereby the petitioner's interest will be protected; (3) the extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record; (4) the extent to which the petitioner's interest will be represented by existing parties; and (5) the extent to which the petitioner's participation will broaden the issues or delay the proceeding. SUWA's petition and request meet each of these criteria.

First, SUWA clearly has good cause for filing its petition and request after the initial time period. PFS did not submit its amendment application until on or about August 28, 1998. This proposed amendment to PFS's application was not published in the Federal Register or any local newspaper or local media outlet. Indeed, most of the parties to this proceeding did not receive copies of the amendment or other notice thereof until early October. Thus, SUWA received no notice of the amendment. This failure to notify the public of what constituted a considerable alteration in its license application — one which because of its significant departure from the initial license application plainly could and did implicate the interests of individuals and entities who were not then parties to the proceeding — establishes that SUWA had good cause not to file its petition and request earlier. Furthermore, once SUWA did learn of the amendment, it acted as quickly as possible in submitting this petition and request.

Second, there exist no other means by which SUWA can protect its interests in this proceeding. Thus, fairness dictates that SUWA be allowed to participate in the present proceeding.

Third, SUWA's participation will help develop a sound record in this proceeding.

SUWA's knowledge of the Cedar Mountains and the criteria for wilderness designation uniquely qualifies it to provide information regarding the potential impacts of the Low Rail Spur on the wilderness character of the North Cedar Mountains roadless area. SUWA is represented by experienced counsel and is assisted by experts, including those who conducted the 1998 reinventory, as well as other biological and legal experts.

Fourth, no other party will represent SUWA's interests in this proceeding. As is evident from review of the record, no other party has indicated a concern with preserving the wilderness character of the lands over which the Low Rail Spur will be constructed and operated. No other party has inventoried the area for wilderness character or publicly determined that it should be designated as wilderness. As a result, none of the existing parties will adequately represent SUWA's interests in this matter.

Fifth, SUWA's participation in this matter will not unduly broaden or delay the proceeding significantly, as the scope of issues currently accepted as justiciable by the Licensing Board is quite broad already. Furthermore, the Board has already admitted issues that are similar, although not identical to, those raised by SUWA's participation in this matter. Moreover, the Board has yet to rule on new issues raised by other intervenors. Thus, at this time, SUWA's filing will not delay the proceeding. Furthermore, any delay is outweighed by the significance of this issue raised as a result of the new Low Rail Spur proposal. Accordingly, SUWA satisfies the NRC's criteria for late consideration.

B. SUWA Has Standing to Intervene and Qualifies As an Intervenor under 10 C.F.R. § 2.714(d)(1).

To determine whether those seeking party status have standing as a right, the agency requires a potential participant to establish (1) it has suffered or will suffer a distinct and palpable injury that constitutes injury-in-fact within the zones of interests arguably protected by the governing statutes (e.g., the Atomic Energy Act of 1954 (AEA), the National Environmental Policy Act of 1969 (NEPA)); (2) the injury is fairly traceable to the challenged action; and (3) the injury is likely to be redressed by a favorable decision. See Yankee Atomic Electric Co. (Yankee Nuclear Power Station), CLI-96-1, 43 NRC 1, 6 (1996). Further, when, as here, an organization seeks to intervene on behalf of its members, that entity must show it has an individual member who can fulfill all the necessary elements and who has authorized the organization to represent his or her interests.

In assessing a petition to determine whether these elements are met, the Commission has stated that it will "construe the petition in favor of the petitioner." Georgia Institute of Technology (Georgia Tech Research Reactor, Atlanta, Georgia), CLI-95-12, 42 NRC 111, 115 (1995).

Even if a petitioner fails to demonstrate its standing as of right, it is not necessarily deprived of the opportunity to obtain party status in an agency adjudicatory proceeding. The Commission has recognized that a petitioner can be granted party status, as a matter of discretion, based upon the presiding officer's consideration of the following factors:

- (a) Weighing in favor of allowing intervention --
 - (1) The extent to which the petitioner's participation may reasonably be expected to assist in developing a sound record.
 - (2) The nature and extent of the petitioner's property, financial, or other interest in the proceeding.
 - (3) The possible effect of any order which may be entered in the proceeding on the petitioner's interest.

- (b) Weighing against allowing intervention --
 - (4) The availability of other means whereby petitioner's interest will be protected.
 - (5) The extent to which the petitioner's interest will be represented by existing parties.
 - (6) The extent to which petitioner's participation will inappropriately broaden or delay the proceeding.

Portland General Electric Co. (Pebble Springs Nuclear Plant Units 1 & 2), CLI-76-27, 4 NRC 610, 616 (1976).

Applying these standards to SUWA's request demonstrates that the organization has standing to participate in this proceeding. Particularly in light of the agency's duty to favor intervention, SUWA should be granted party status in this matter.

First, as established above, the proposed Low Rail Spur threatens an injury to SUWA that is distinct and palpable. SUWA is dedicated to obtaining wilderness designation for qualifying BLM roadless areas. SUWA has concluded, after much analysis, that the North Cedar Mountains roadless area qualifies as wilderness under the Wilderness Act. SUWA is further

committed to protecting wild roadless areas in their current state until Congress has the opportunity to designate them as wilderness. In fact, the Low Rail Spur threatens the wilderness character of the North Cedar Mountains, and if constructed and operated, will disqualify the area for wilderness designation. This injury is within the zones of interests arguably protected by the relevant governing statutes such as NEPA. See, NEPA (analysis of potential impacts to the environment must be undertaken). As a result, the threat posed by the Low Rail Spur to SUWA is real and imminent.

Second, SUWA's injury is directly traceable to the proposed Low Rail Spur — if the Low Rail Spur and the fire buffer are constructed and the rail line operated, the North Cedar Mountains will no longer qualify for protection under the Wilderness Act. Thus, the construction of the rail spur will harm SUWA's interests.

Third, for the same reasons, a favorable decision — the realignment or abandonment of the Low Rail Spur -- will redress SUWA's injury. If the rail spur is not built or its alignment significantly altered so that it does not jeopardize the North Cedar Mountain's wilderness character, SUWA will not be harmed.

Fourth, as the attached affidavit confirms, Jim Catlin, a member of SUWA, has established that he fulfills all the necessary standing elements and has authorized SUWA to represent his interests in this proceeding. Affidavit of Jim Catlin, ¶ 18-21. Mr. Catlin shares SUWA's dedication to preserving potential wilderness areas and its concern for the potential impacts on the North Cedar Mountains roadless area caused by the Low Rail Spur. If the Low

Rail Spur is realigned or abandoned, Mr. Catlin will not be harmed.

Finally, the balancing of the permissive standing criteria also favor SUWA's participation in this matter. As already established, SUWA's participation will help develop a sound record, will serve to protect SUWA's profound interest in this proceeding, and will, if the ruling is favorable, eliminate the harm to SUWA's interests. In addition, SUWA has no other means for protecting its interests other than participation in this matter, as no other parties will adequately protect SUWA's interests. Finally, SUWA's participation will not unduly delay this proceeding.

For these reasons, and because the agency is required to favor intervention, SUWA has standing to fully participate in this proceeding.

IV. SUWA Should Be Permitted To Intervene In Those Aspects of This Proceeding Dealing With the Low Rail Spur.

Pursuant to 10 C.F.R. §2.714 (b) (2), a petitioner is required to state the "specific aspect or aspects of the subject matter of the proceeding" as to which it wishes to intervene. The purpose of this requirement is not to judge the admissibility of the issues, as the petitioner has the right to amend its petition to intervene with contentions later in the proceeding. Consumers Power Co. (Midlands Plant, Units 1 and 2), LBP-78-27, 8 NRC 275 (1978). Rather, the purpose of the requirement is to determine whether the petitioner specifies "proper aspects" for the proceeding. Id. Thus, the petitioner may satisfy the requirement "by identifying general potential effects of the licensing action or areas of concern that are within the scope of matters that may be considered in the proceeding." Vermont Yankee, supra, LBP-90-6, 31 NRC at 89,

citing Virginia Electric and Power Co. (North Anna Power Station, Units 1 and 2), ALAB-146, 6 AEC 631, 633 (1973).

As stated above, SUWA has specified the effects which the Low Rail Spur may have on its interests. To this end, SUWA seeks to participate in those aspects of this proceeding that deal with the decision concerning the construction and operation of the Low Rail Spur and the construction and maintenance of any associated fire buffer or other associated proposals that may impact the wilderness character of the North Cedar Mountains. SUWA also seeks to participate in aspects of this proceeding that concern the adequacy of consideration to alternatives to the construction or alignment of the Low Rail Spur. SUWA seeks participation in these aspects of the proceeding so that it can protect the wilderness character of the North Cedar Mountains. Importantly, SUWA has filed herewith its contentions regarding the Low Rail Spur which further demonstrate that the organization has properly identified that the potential effects of the licensing action of concern to SUWA are within the scope of matters that will be considered in the proceeding.

V. CONCLUSION

Based upon the foregoing, SUWA respectfully requests the following relief:

1. approval of SUWA's request for a hearing;
2. approval of SUWA's Petition for Intervention and permission for the organization to participate as a party to this proceeding; and
3. all other appropriate relief.

Respectfully submitted this 18th day of November, 1998.

JORO WALKER
Land and Water Fund of the Rockies
165 South Main Street, Suite 1
Salt Lake City, Utah 84111
(801) 355-4545

RICHARD CONDIT
Land and Water Fund of the Rockies
2260 Baseline Road, Suite 200
Boulder, Colorado 80302
(303) 444-1188 ext. 219
Boulder, Co 80302

Attorneys for Southern Utah Wilderness Alliance

Deseret News

THURSDAY, JULY 9, 1998

8.5 million acres of wilds urged

Utah coalition's wish list is cheered at U. open house

By **Joey Haws**
and **Jerry Spangler**
Deseret News staff writers

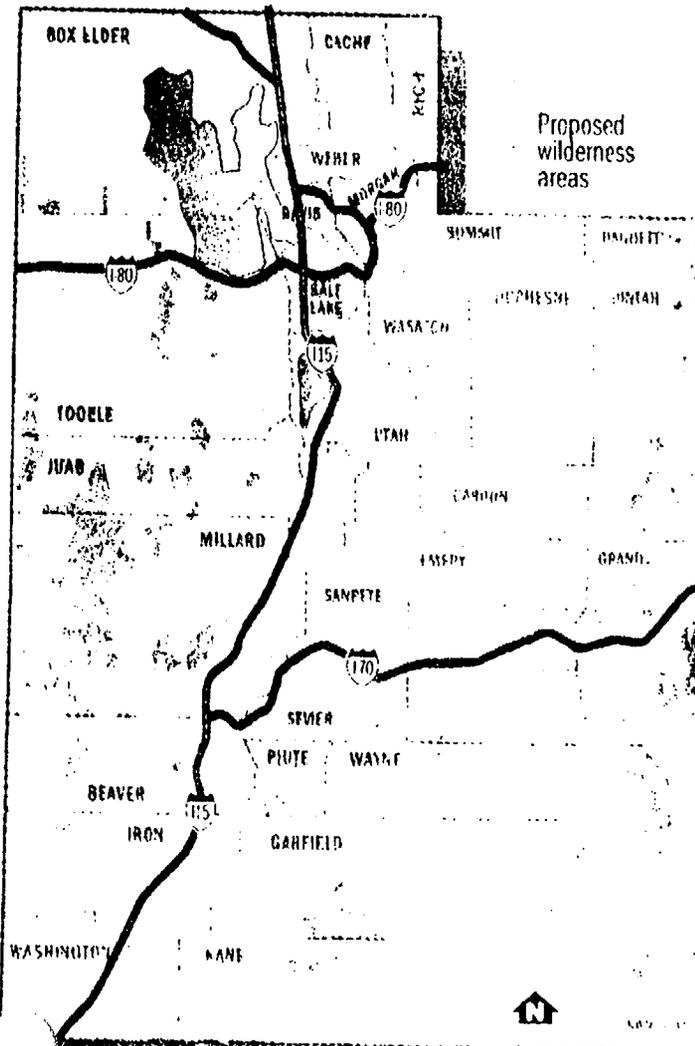
The results are in, and they are big. About 8.5 million acres big.

On Wednesday, the Utah Wilderness Coalition unveiled the 8.5-million-acre wish list generated by its citizens' wilderness inventory of Bureau of Land Management lands during an open house at the University of Utah.

More than 800 people filled the Olpin Student Union Building to cheer the results of what some believe is "the most extensive citizens' inventory in United States history" and to increase the political pressure on Utah's Republican majority to retract its opposition.

Areas added Wednesday to the wilderness list were mostly from the west desert and the Great Basin regions — approximately 2 million new acres.

All told, the 8.5 million acres are 2.8 million more than the coalition's last wilderness proposal of 5.7 million acres and about 6.5 million acres more than the amount proposed in various bills by Utah's congressional delegation.



Areas added to the wilderness wish list include Tule Valley in the west desert, Pilot Peak range bordering Nevada, Dome Plateau near Moab, and the central Price River and Hammond Canyon areas in central Utah.

Hundreds of volunteers donated thousands of hours over the past two years walking Utah's backcountry to identify those lands that remain unmarred by development and meet the legal definition found in the 1964 Wilderness Act. The results of that survey have been released piecemeal over the past several weeks, and Wednesday's open house was the last of four in Utah.

The Utah Wilderness Coalition will now conduct open houses in other major metropolitan areas like San Francisco and Boston.

"Because of this inventory, Utah is now a model and the nation is paying attention," said Bob Bingham, field director of the Sierra Club, one of the more than 150 environmental organizations that comprise the Utah Wilderness Coalition.

One person who is paying attention is Rep. Merrill Cook, R-Utah, who was the first major elected official to attend a Utah Wilderness

Coalition open house. The Republican delegation has been adamantly opposed to the designation of big wilderness, and Cook cautioned that "what decision is reached should be based on science and facts," not mythology and hearsay.

Cook then surprised everyone by announcing he was withdrawing his support of a GOP proposal for the San Rafael Swell that included some wilderness, but not nearly as much as wilderness advocates had wanted.

"I cannot support or vote for the San Rafael bill," he said to a roar of cheers from the crowd.

"It's a huge announcement," said Mike Matz, executive director of the Southern Utah Wilderness Alliance. "Having a Republican member of Congress from Utah say he will vote against the San Rafael bill is huge because it provides a great deal of cover for other Republicans from outside the state."

However, Cook's lack of support for the San Rafael bill should not

be interpreted as unequivocal support for 8.5 million acres of wilderness. In fact, Cook would not commit to how much wilderness should be designated.

Even though Cook's district, which comprises much of Salt Lake County, is largely supportive of big wilderness, Utah's first-term congressman could face withering opposition from Utah's veteran Rep. Jim Hansen, who has repeatedly thwarted attempts at designating anything more than 2 million acres of Utah wilderness.

The BLM is conducting its own re-inventory to see which wild lands meet wilderness criteria. BLM director and Utah native Pat Shea, who was in Park City Wednesday for a conference of university deans of agriculture, said the inventory is progressing without interference or influence from either side.

The results of the Utah Wilderness Coalition inventory have not and will not influence BLM staffers, he said. "Our people know what the (wilderness) law is, and

they are quietly going about doing their jobs."

Cook's opponent, Democrat Lily Eskelsen, promised that if she is elected she will co-sponsor a big wilderness bill to protect every last acre of undeveloped public land in Utah.

However, as long as Republicans control Congress, big wilderness will likely never get beyond committee debate.

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The Salt Lake Tribune

<http://www.sltrib.com>

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THURSDAY, JULY 9, 1998

Wilderness Wish List: 8.5 Million Acres

Advocates release Utah review, which off-road enthusiasts and others immediately challenge

BY BRENT ISRAELSEN
THE SALT LAKE TRIBUNE

Having simmered for more than a year, Utah's wilderness debate is back on full boil.

Wilderness advocates Wednesday announced they believe no fewer than 8.5 million acres of public land in Utah qualify for federal wilderness protection, the most restrictive land-management designation.

And they say they have the evidence to prove it.

This is the most rigorous, technical citizens inventory [of wilderness] that's ever been done in the United States," said Larry Young, co-chairman of the Utah Wilderness Coalition (UWC).

On Wednesday, the UWC, which represents 155 environmental groups pushing for a big Utah wilderness bill, released findings of a two-year "reinventory" of some 22 million acres of land administered by the U.S. Bureau of Land Management.

They concluded that their current wilderness bill — HR1500, which called for setting aside 5.7 million acres — falls short by nearly 3 million acres. Most of the shortfall, about 2 million acres, is found in the Great Basin, an area largely overlooked in environmentalists' original inventories.

The Great Basin is characterized by large desolate valleys interrupted by steep, rugged mountain ranges, most of which remain largely untouched by humans, wilderness advocates say.

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Off-road enthusiasts disagree. About a dozen members of the Utah 4-Wheel-Drive Association worked the crowd to make it clear they seriously question whether the new inventory of wild lands honestly deals with what could become the biggest sticking point: roads.

Association spokeswoman Marsha Terry said, "They are proposing to close roads and trails that families in Utah have enjoyed for over 100 years."

Also, in a press statement released before Wednesday's meeting, the newly organized "Utah Association of Rural Counties" slammed the UWC's reinventory methodology, and called the new wish list a "completely political exercise."

"The UWC's primary motive in increasing their demands is an attempt to make their existing but still extreme 5.7 million acre wilderness proposal seem more moderate," said the rural county group, whose only named member on the news release was Millard County Commissioner Lana Moon.

Attended by about 700 people packed into the University of Utah's Student Union Ballroom, Wednesday's meeting had a decidedly political air to it.

Bob Bingaman, a UWC co-chairman, said Utah's congressional delegation made a "big mistake" in the last Congress by introducing a bill calling for just 2 million acres of wilderness — a bill that mobilized environmentalists nationwide and eventually died in the Senate.

Bingaman promised the renewed battle for big wilderness will be just as hard-fought.

This is a huge fight of organized people against organized

money. He said, referring to mining, agricultural and off-road interests who likely are to oppose a large wilderness bill.

Mike Matz, director of the Southern Utah Wilderness Alliance, said the new 8.5-million-acre figure is a starting point. UWC members plan to sit down with politicians to determine which of these areas should be included in a new wilderness bill.

There were few Utah politicians at Wednesday's meeting. Notably missing were representa-

tives from Governor's office and Utah's congressional delegation other than Rep. Merrill Cook.

Cook, a Republican, praised the UWC's efforts, saying the new inventory will be helpful in resolving the debate, but he would not commit to how much wilderness he supports.

Cook said he favors a "scientific" approach to determine the appropriate bill to protect ecosystems.

Lily Eskelsen, a Democrat vying to unseat Cook, said she would co-sponsor HR1500, and wants to protect "every acre of wilderness in Utah" that qualifies.

COOK'S DECISION

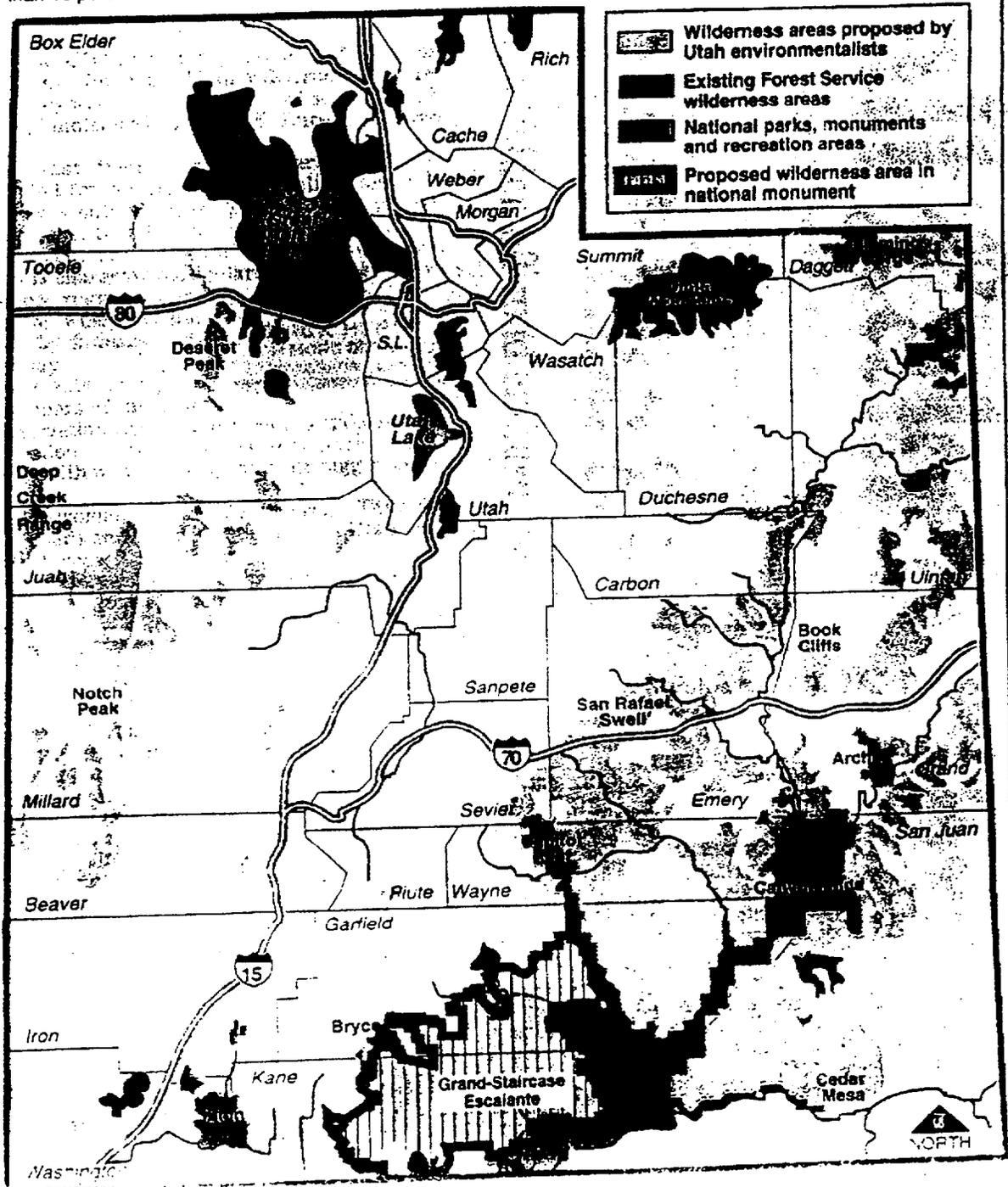
Utah Rep. Merrill Cook on Wednesday broke party rank, announcing he will not support a conservation bill sponsored by GOP Rep. Chris Cannon.

Cook said he has reservations about the scientific integrity of the proposed San Rafael Swell National Heritage/Conservation Area Act.

"Although it is based on good intentions . . . I cannot support or vote for [Cannon's] San Rafael bill," Cook said.

Environmentalists Expand Wilderness Proposal

Utah environmentalists have unveiled a new proposal to protect about 8.5 million acres of wilderness — just less than 16 percent of the state.



Full house packs wilderness meeting

by Franklin Seal
staff writer

It was standing room only at the Moab Arts and Recreation Center last Wednesday evening as the Utah Wilderness Coalition (UWC) unveiled its re-inventory of Utah lands that they believe fit tough federal standards of what, exactly, wilderness is.

Every available wall was covered in maps, at the front of the room tables were piled high with boxes of files — the data, accumulated during the past two years by over 300 volunteers, that the Southern Utah Wilderness Alliance (SUWA) and the UWC are hoping will help them win the battle to save Utah's remaining wilderness.

In the long-running debate over exactly how much land, and which tracts, in Utah to designate as wilderness, the battle cry of the pro-wilderness forces has been fixed on a number — 5.7 million acres. Well, "forget the numbers game from now on" was the mes-

sage heard at the UWC open house in Moab Wednesday — the first in a series planned for different towns across Utah over the next two months.

"This is about places, not numbers," said Lawson Legate, Southwest Regional Representative of the National Sierra Club who addressed the overflow crowd of 130.

SUWA's Kevin Walker, a key figure in the effort to gather all the data, explained how the detailed process of gathering the data was carried out, and why. "Our position has always been, if there's so little wilderness left in Utah, then let's find out what is really wilderness."

"The criteria that we used were generally stricter than required by BLM regulations," said Walker. The idea was to end up with a system of proposed wilderness boundaries that could be defended more easily in the coming legislative battles. One example of how the standards used in their new inventory were more stringent was the require-

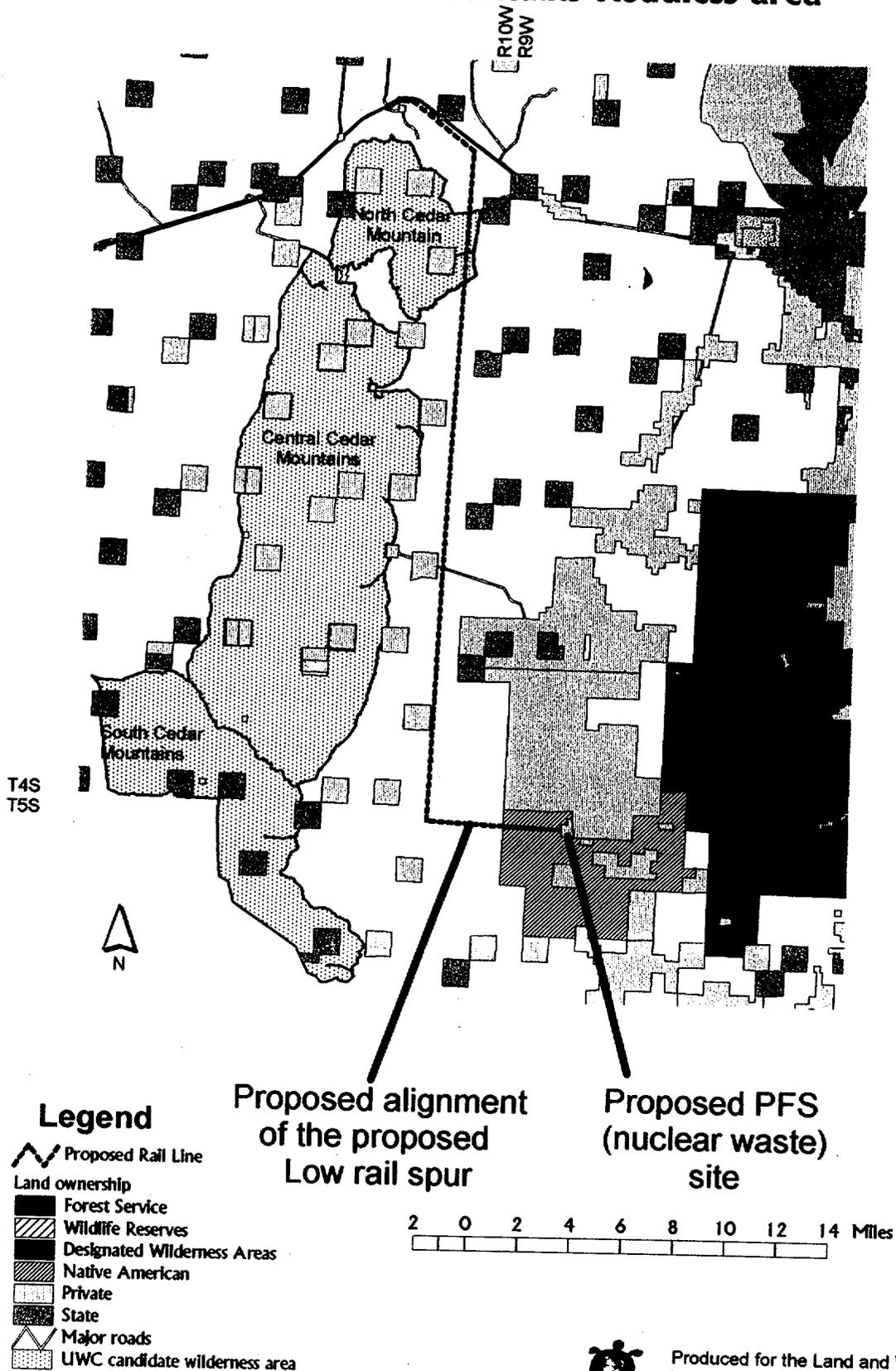
ment that a section of land be twice as large as the BLM standard — 10,000 acres instead of 5,000.

Though the new inventory appears to include more acres than previously proposed by the UWC, the process also eliminated land from wilderness designation which had become unsuitable due to new usage patterns or development since the previous inventory was conducted in the 1970s. One map on the wall showed several large areas near Moab marked in red which meant they had been dropped from the old proposal. This means that now, 95 percent of all Moab's annual Jeep Safari trails lie outside proposed wilderness areas.

Despite the revamped battle cry, "Wild Utah," which avoids the sticky issue of numbers, numbers were obviously still part of the calculation. "The numbers are going up," said Walker. "But it's not 'new'. It's old wilderness that's being newly recognized. Our proposal is changing, but that's because we're doing a better job of identifying it."

Steven Taggart, administrative assistant for Utah Rep. Chris Cannon, had come to observe. He wasn't sure if the UWC was truly sending a signal that they had backed off their insistence on a set total of acres. "I don't really know," said Taggart. "That truly is one of the great mysteries."

The impacts of the Low rail spur on the North Cedar Mountains Roadless area



Produced for the Land and Water Fund by the Wild Utah Project, Nov 1998

UNITED STATES OF AMERICA
BEFORE THE
NUCLEAR REGULATORY COMMISSION

BEFORE THE ATOMIC SAFETY AND LICENSING BOARD

Private Fuel Storage, a Limited Liability
Company;

(Independent Spent Fuel Storage
Installation).

Docket No. 72-22
November 18, 1998

**DECLARATION OF JIM CATLIN
FOR PETITIONER SOUTHERN UTAH WILDERNESS ALLIANCE (SUWA)**

I, **Jim Catlin**, based on personal knowledge, declare as follows:

A. Background

1. I am an adult citizen and resident of Salt Lake County, Utah. I was raised in Utah and have lived there almost all of my life.
2. I have a PhD from the University of California, Berkeley in Natural Resource Management and Geographic Information Systems (GIS). I have been practicing in this field for 20 years.
3. I am a member in good standing of the Southern Utah Wilderness Alliance (SUWA), petitioner in this matter, and was one of the original members of the organization.
4. I am project director of the Wild Utah Project. Like SUWA, the Wild Utah Project is a key member of the Utah Wilderness Coalition (UWC) and supporter of the 1998 reinventory of

Bureau of Land Management (BLM) wilderness lands. The goal of this reinventory effort was to: 1) obtain thorough, accurate data to establish which BLM lands qualified for wilderness designation; 2) exclude areas that once, but no longer, qualified as wilderness; and 3) insure that any resulting wilderness proposal fully represented Utah's biological richness and geographic diversity. SUWA, who is a board member of UWC, spear-headed and was collectively in charge of the reinventory process, along with other UWC Board members.

5. I participated in the original inventory of BLM lands for SUWA which resulted in the Citizens' Wilderness Proposal. This proposal is the basis for legislation currently pending in the United States House of Representatives (H.R. 1500) and the Senate (S. 773), which would protect all the lands in the proposal under the Wilderness Act of 1964. This legislation now has approximately 147 co-sponsors among House and Senate members.

6. I, together with my staff members, created the map entitled "The Impacts of the Low Rail Spur on the North Cedar Mountains Roadless Area" attached to SUWA's Petition as Exhibit 2. To make this map, I overlaid wilderness boundaries that we created based on field data on top of other digital map information from state and federal agencies. I then added digitized information from the map included in the license amendment indicating the alignment of the proposed Low Rail Spur.

7. I am intimately familiar with the criteria used by various public land agencies, including the BLM, to determine which lands are suitable for wilderness. I have extensive practice in making such determinations on the basis of field work, maps, aerial and ground photographs and other information.

B. The Reinventory Process

8. I am under contract with UWC and am working in close cooperation with SUWA to complete the reinventory process of BLM lands for wilderness character. I am a member of the technical review team (TRT) which ultimately proposed to SUWA and the UWC lands deserving wilderness protection.

9. To conduct this reinventory, we relied on standards that have been established by Congress and federal land management agencies for determining which lands should be designated as wilderness pursuant to the Wilderness Act of 1964. These statutes and regulations provide definitions of "roadlessness," "substantially unnoticeable" impacts and other criteria necessary for determining the wilderness character of particular lands pursuant to the Wilderness Act. Essentially, large tracts of roadless public lands, where human impacts are substantially unnoticeable, qualify for wilderness designation and must be determined as such by the BLM.

10. With these criteria as a basis and with guidance from SUWA and the UWC, we conducted our reinventory field work in several stages. Prior to the actual field work, we gathered as much information as possible about each large potential wilderness area. On average, we put in at least ten hours of work per potential wilderness area, creating maps for use in the field. We modified United States Geological Survey (USGS) 7.5 minute scale maps with land ownership information, cross-checked with BLM's land status plats. We then consulted recent aerial photographs of the area to locate impacts not already on the USGS maps. Aerial maps proved to be a very reliable indicators of impacts, which, in a fragile desert environment, are easily identified from above.

11. Next, carefully screened and trained volunteers and staff conducted field work to verify map information. These volunteers received approximately 2 hours of training in the classroom, in sessions run by me and other staff members. Then, each volunteer was trained by me or other staff members in the field for approximately one-half day. Next, the volunteers were assigned a potential wilderness area and given a packet containing several maps, film, instructions and forms for field notes.

12. Field workers then traveled the outer boundary of each potential wilderness area, taking frequent photographs of impacts to the land. These workers traveled the length of any intrusions (and any branches of intrusions) entering into a roadless area. Any impacts were photographed and these photographs linked to maps. As a result of this work, each roadless area was further documented by field notes and photographs (40,000 to 50,000 photographs in all).

13. I, together with other staff members reviewed all volunteer work. If we discovered gaps or inconsistencies in the field work, I or other staff members would revisit the site, several times, if necessary, to complete field checks. We also gathered additional information, including off-road vehicle routes, mineral deposits and grazing uses. On the basis of maps, field work and any additional information, we made a preliminary boundary recommendation. This recommendation was, in turn, reviewed and fine-tuned by the technical review team (TRT), of which I was a member. The four members of the TRT critiqued all preliminary recommendations for consistency and integrity. The TRT adopted stricter wilderness identification guidelines than the BLM so that the resulting boundaries would be above challenge. The boundary specifications that resulted from TRT review were then digitized on GIS along with a written detailed description of the boundary, together with rationales for any

tough decisions involved.

14. Because one of the goals of the 1998 inventory process was to use wilderness designation as a means to protect biological diversity, Wilderness Act, 16 U.S.C.A. § 1131(3)(4), the TRT, in consultation with biologists, gave priority to areas containing large elevation gradients, large complexes on contiguous roadless areas, and riparian areas.

15. The inventory of the North Cedar Mountains roadless area was conducted according to this standard procedure. Inventory staff spent approximately 10 hours preparing maps for field survey work, which included review of aerial photographs. The area was then surveyed by a volunteer who took field notes describing each of the 24 pictures linked to USGS maps. Then inventory staff members (one of whom was a member of the TRT) revisited the site and took 38 more photographs, which were also described in field notes and linked to maps. Then I, together with other TRT members, used this information to recommended the boundaries of the proposed wilderness area to SUWA and the UWC. This consultation resulted in the proposed wilderness designations as are depicted on the North Cedar Mountains Map.

C. Impacts of the Low Rail Spur on the North Cedar Mountains.

16. The construction and operation of the Low Rail Spur and the construction and maintenance of the fire buffer zone will irreversibly impair the wilderness character of the North Cedar Mountains.

17. If constructed pursuant to the license amendment, the Low Rail Spur will significantly intrude into the North Cedar Mountain roadless area so that it will no longer be an area which "generally appears to have been affected primarily by the forces of nature, with the imprint of [human] work substantially unnoticeable; . . ." Wilderness Act, 16 U.S.C.A. §

1131(c)(1). In addition, the operation of the rail spur will significantly intrude upon the area's currently "outstanding opportunities for solitude. . . ." Id., § 1131(c)(2). Finally, the construction and operation of the rail spur will have adverse impacts on the area's wildlife and plant life, values which are essential to the ecological health of the area. Id., § 1131(c)(4).

D. Standing

18. Members of SUWA use and enjoy the waters, public lands, and natural resources on BLM lands for many health, recreational, scientific, spiritual, educational, aesthetic, and other purposes. SUWA members enjoy hiking, camping, birdwatching, study, contemplation, solitude, photography, and other activities in and around the public lands over which the Low Rail Spur will traverse. SUWA and its members also participate in information gathering and dissemination, education and public outreach, commenting upon proposed government actions, and other activities relating to the management of and impacts on BLM lands, including the North Cedar Mountains and other public lands and resources in the area managed by the BLM. These health, recreational, scientific, spiritual, educational, aesthetic, informational, and other interests will be directly effected and irreparably harmed by a decision to allow construction and operation of the Low Rail Spur, and by other agency actions which may impact the North Cedar Mountains or any other roadless BLM lands.

19. In addition, SUWA is actively involved in citizen oversight, review and comment upon government decision making affecting BLM public lands. The government's potential failure to disclose critical environmental effects of the proposed rail spur in its analysis and decision-making documents may harm SUWA's ability to fulfill their organizational mission to inform SUWA members and others about threats to the environment.

20. I have used and enjoyed the public lands and natural resources on BLM lands for many health, recreational, scientific, spiritual, educational, aesthetic, and other purposes and have used and enjoyed for these same purposes, the exact tract of lands contained in the North Cedar Mountains roadless area as depicted in Exhibit 2. My health, recreational, scientific, spiritual, educational, aesthetic, informational, and other interests will be directly effected and irreparably harmed by a decision to allow construction and operation of the Low Rail Spur and by other agency actions which may impact the North Cedar Mountains or any other roadless BLM lands.

21. The North Cedar Mountains roadless area possesses wilderness character and should be designated as wilderness. I will be harmed if the Low Rail Spur is constructed and operated. This construction and operation will eliminate the North Cedar Mountains from consideration as wilderness and will prevent these lands from receiving the increased management protection given to wilderness areas. In addition, the construction and operation of the Low Rail Spur will threaten the ecological values of the North Cedar Mountains. If these values are harmed, I too will be harmed.

I DECLARE, under penalty of perjury, that the foregoing is true and correct.

Executed on this November 18, 1998

JIM CATLIN

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