

**BEFORE THE
UNITED STATES OF AMERICA
FEDERAL ENERGY REGULATORY COMMISSION**

_____) Utah Board of Water Resources)) Lake Powell Pipeline Project)) _____)))))))	Project No. 12966-005 Docket No. EL18-56-000 CBD Supplemental Documents re: Motion to Intervene and Opposition to Declaratory Order
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CENTER FOR BIOLOGICAL DIVERSITY
SUPPLEMENTAL DOCUMENTS RE DOCKET p-12966-005

On February 12, 2018, the Center for Biological Diversity (“Center”) timely moved to intervene in this matter and submitted an answer to the applicant’s December 27, 2017 petition for a declaratory order regarding jurisdiction. The applicant had also requested the procedural schedule be suspended until the Commission ruled on its petition. On August 22, 2018, the applicant requested that the Commission reinstate the procedural schedule, although the Commission has not yet ruled on its petition.

The Center submits the attached supplemental documents that are relevant to this matter:

- Salt Lake Tribune, February 1, 2018, *Utahns may be pouring even more water on their lawns and gardens than previously thought*, Emma Penrod, <https://www.sltrib.com/news/2018/02/01/utahns-may-be-pouring-even-more-water-on-their-lawns-and-gardens-than-previously-thought/>
- Western Values Project, February 12, 2018, *Report: Utah Rep. Noel to benefit personally and professionally from new reduced Grand Staircase-Escalante National Monument boundary: Leading anti-public land Utah Representative Mike Noel’s grand carveout leaves many questions unanswered*, Jayson O’Neill, <https://westernvaluesproject.org/report-utah-rep-noel-to-benefit-personally-and-professionally-from-new-reduced-grand-staircase-escalante-national-monument-boundary/>
- Campaign for Accountability, February 20, 2018 letter to Utah Attorney General Reyes

requesting investigation of conflicts of interest of Utah State Representative Michael Noel, <https://campaignforaccountability.org/wp-content/uploads/2018/02/CfA-Complaint-Mike-Noel-Utah-AG-2-20-18.pdf>

- Salt Lake Tribune, February 21, 2018, *National ethics group calls for investigation of Utah Rep. Mike Noel 'for failing to disclose conflicts of interest'*, Brian Maffly, <https://www.sltrib.com/news/2018/02/21/national-ethics-group-calls-for-investigation-of-utah-rep-mike-noel-for-failing-to-disclose-conflicts-of-interest/>
- Mother Jones, May. 9, 2018, *God Said to Make the Desert Bloom, and Mormons Are Using Biblical Amounts of Water to Do It*, Nathalie Baptiste, <https://www.motherjones.com/environment/2018/05/god-said-make-the-desert-bloom-and-mormons-are-using-biblical-amounts-of-water-to-do-it/>
- Outside Online, August 14, 2018, *The Green Green Grass of Utah Golf courses! Water parks! Man-made lakes! If Utah has its way, the retiree oasis of St. George will explode with growth, turning red rock to bluegrass and slaking its thirst with a new billion-dollar pipeline from the Colorado River*, Mark Sundeen, <https://www.outsideonline.com/2333236/utah-pipeline-water-shortage-st-george>
- Colorado River Research Group, August, 2018, *Its Hard to Fill a Bathtub When the Drain is Wide Open: The Case of Lake Powell*, https://www.coloradoriverresearchgroup.org/uploads/4/2/3/6/42362959/crrg_the_case_of_lake_powell.pdf

The Colorado River Research Group paper was previously served on all parties on August 24, 2018 and the remaining documents were served on all parties on August 22, 2018.

Respectfully submitted,

/s/ _____
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Dated: September 10, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing upon each person designated on the official service list in this proceeding as compiled by the Secretary of the Federal Energy Regulatory Commission.

Dated at Oakland, California this 10th day of September, 2018.

/s/
Lisa Belenky

Attachments

<https://www.sltrib.com/news/2018/02/01/utahns-may-be-pouring-even-more-water-on-their-lawns-and-gardens-than-previously-thought/>

Utahns may be pouring even more water on their lawns and gardens than previously thought

By Emma Penrod

• 20 hours ago [February 1, 2018]

Utah has a pretty accurate measure on its residents' use of drinking water, but estimates on how much unmetered water they sprinkle on their lawns and gardens could be off by as much as 30 percent.

Those and other findings came from an official double-checking of Utah's water numbers by two independent engineer firms, in a report presented Wednesday to state lawmakers.

The state Division of Water Resources uses water usage data to project the future needs of Utah's roughly 500 water systems and to determine whether to invest in massive new water projects, such as the Lake Powell pipeline and a system of dams on the Bear River.

But several past investigations have revealed flaws and inaccuracies in the state's system for gauging water consumption, and this latest report found that some state figures continue to miss the mark, highlighting a need for meters on hundreds of water systems.

Lawmakers, meanwhile, are resistant to requiring water meters, preferring instead to leave that decision to municipal leaders.

Utah seemed to have a pretty good handle on how much drinking-quality water is consumed, which is almost universally monitored by water meters. When two engineering firms, Bowen Collins & Associates in Draper, and Hansen, Allen & Luce, based in South

Jordan, teamed up to recreate the state's calculations on culinary water, they came up with numbers more or less matching Utah's official figures.

But secondary water — largely untreated water some Utahns use to irrigate lawns, gardens and pastures — was a different story. The engineers' consumption numbers were as much as 34 percent higher than those produced by the state, the engineers' report found.

Keith Larson, project manager and an engineer with Bowen Collins, said the state's underestimates stemmed from a lack of raw readouts from water meters. Private engineers, though, were able to access meter readings from several water systems that had them installed, and used that data to “make a better estimate.”

But that kind of analysis would be impossible for all of Utah's secondary systems, Larson said, because few currently have meters. And without water meters, he said, it's not possible to “get any more detailed numbers there than what the state had.”

That problem has long vexed the state Division of Water Resources in its quest for accurate water use data. A 2015 legislative audit also suggested that installing meters on those systems would improve the state's handle on its water use — while also reducing water waste.

Todd Adams, deputy director of the Utah Division of Water Resources, said the latest study only underscored the need for “universal secondary water metering.”

In fact, data from systems that had installed meters suggest that action alone could reduce water use by 34 percent, Adams said.

State experts currently estimate secondary water use using calculations based on the number of properties a system serves and the sizes of those lots — with an assumption that these water

customers use about as much water as residents who use culinary water to maintain their yards.

But they don't, said Rachel Shilton, who oversees river basin planning for the state Division of Water Resources.

"When using secondary water," Shilton said, Utahns' use of water is "higher than when you use culinary water."

Lynn de Freitas, executive director of Friends of Great Salt Lake, which advocates for water conservation, said nobody should be surprised at Utah's high rate of unmetered secondary water consumption. Utah Gov. Gary Herbert's statewide water strategy, released earlier this year, has identified it as a major challenge.

"The general sense was, we need to do a better job and improve the way that we inventory this resource, and [Wednesday's] report confirms that," de Freitas said.

But universal water metering is a tough sell on Utah's Capitol Hill.

State lawmakers have encouraged voluntary installation of water meters, but water managers have generally been slow to adopt the practice. Many legislators are reluctant to resort to added mandates, and at Wednesday's meeting, several said metering was best left with local governments.

But even if state leaders don't require more water meters, Wednesday's report also identified new techniques Utah might try to improve usage estimates.

Shilton said infrared cameras could be deployed to measure just how much of a given property is "green space" to more accurately measure irrigation patterns.

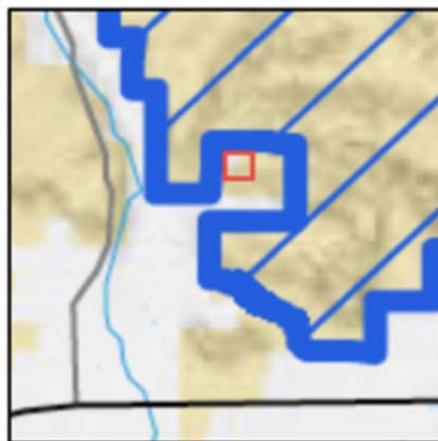
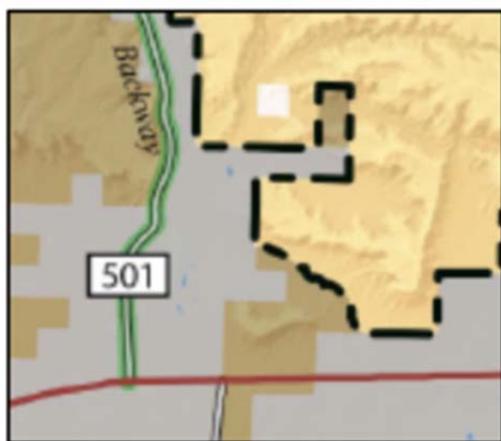
"We are really looking at improving what we do," she said, and the engineers' "recommendations will probably result in a better estimate than what we used."

<https://westernvaluesproject.org/report-utah-rep-noel-to-benefit-personally-and-professionally-from-new-reduced-grand-staircase-escalante-national-monument-boundary/>

February 12, 2018 by [Jayson O'Neill](#)

Report: Utah Rep. Noel to benefit personally and professionally from new reduced Grand Staircase-Escalante National Monument boundary

Leading anti-public land Utah Representative Mike Noel's grand carveout leaves many questions unanswered



Left: Existing GSENM boundary with Noel's undisclosed land in white ([Bureau of Land Management](#)). Right: New GSENM boundary drawn to exclude Noel's land from the monument. A red square (added) indicates Noel's property. (Department of the Interior)

Background on Noel

Anti-public lands leader Mike Noel is a [Utah Rep.](#) for District 73 and the Executive Director of the [Kane County Water Conservancy District](#) (KCWCD). He is also a farmer and rancher with a personal stake in the Grand Staircase-Escalante National Monument (GSENM) boundary because his land outside Kanab, Utah straddles the boundary of the GSENM. [Kane County property searches]

Noel has been advocating against GSENM since it was created. He [left](#) his job at the Bureau of Land Management (BLM) over it. Now, he is using his positions of power to benefit himself and his KCWCD at the expense of public lands.

Noel Fails to Disclose Land Ownership in GSENM

Noel, as a Utah state rep, must disclose the names of his companies and what those companies do on his yearly disclosure form. [["Title 20A Chapter 11 Part 16 Section 1604,"](#) le.utah.gov, accessed 11/30/17]

Noel has never disclosed one of his companies, Noel Properties LLC, on his forms. [[Noel Properties LLC,](#) Utah.gov, accessed 11/30/17] [[Michael E. Noel,](#) le.utah.gov, accessed 9/30/17] This company owns \$1.29 million in land, including a 40-acre inholding in the GSENM.

Is Noel trying to hide a conflict of interest by not disclosing the company which owns land in the monument he opposes?

Noel's Undisclosed Land Now Excluded From Revised Monument Boundaries



Noel hosting Secretary Zinke and Congressman Chris Stewart at the KCWCD HQ (posted to Mike Noel's Facebook page from May 11, 2017)

As *The Salt Lake Tribune* [reported](#), "Proposals for a redrawn Grand Staircase were left to Kane County Leaders. They presented their map while meeting with Zinke on May 10..." The county refused to release the maps to the public or press.

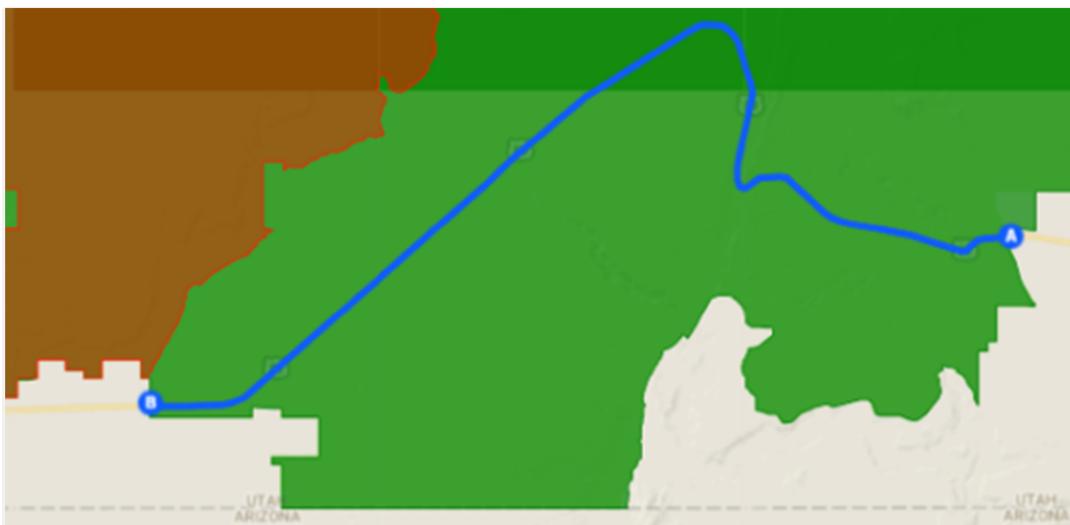
The new GSENM boundaries specifically exclude the undisclosed land Noel owns in GSENM from the monument (see map above).

Was Noel one of the "Kane County leaders" who redrew the GSENM boundaries?

Does the Department of Interior know that Noel's undisclosed land was specifically excluded from the new boundaries?

New Boundary Excludes Path of Noel's Folly: The Lake Powell Pipeline

The redrawn GSENM boundary also excludes the path of Noel's Folly, the unnecessary Lake Powell Pipeline (LPP) that, if built, will benefit Noel more than anyone else in Kane County.



Green: area removed from GSENM by Trump. Brown: new monument boundary. Blue line: proposed route of LPP following Highway 89. (Department of the Interior, FERC)

For years, Noel has been using his positions in the legislature and KCWCD to advocate for the \$2 billion LPP.

To cover its share of the LPP costs, a University of Utah economic study shows that Kane County would need to raise property tax rates by 61 percent, increase water rates by 538 percent, and raise impact fees 344 percent “to an average cost of \$28,577 per connection.” [[Gail Blattenberger, et al](#), Letter to Gov. Gary Herbert, 10/7/13]

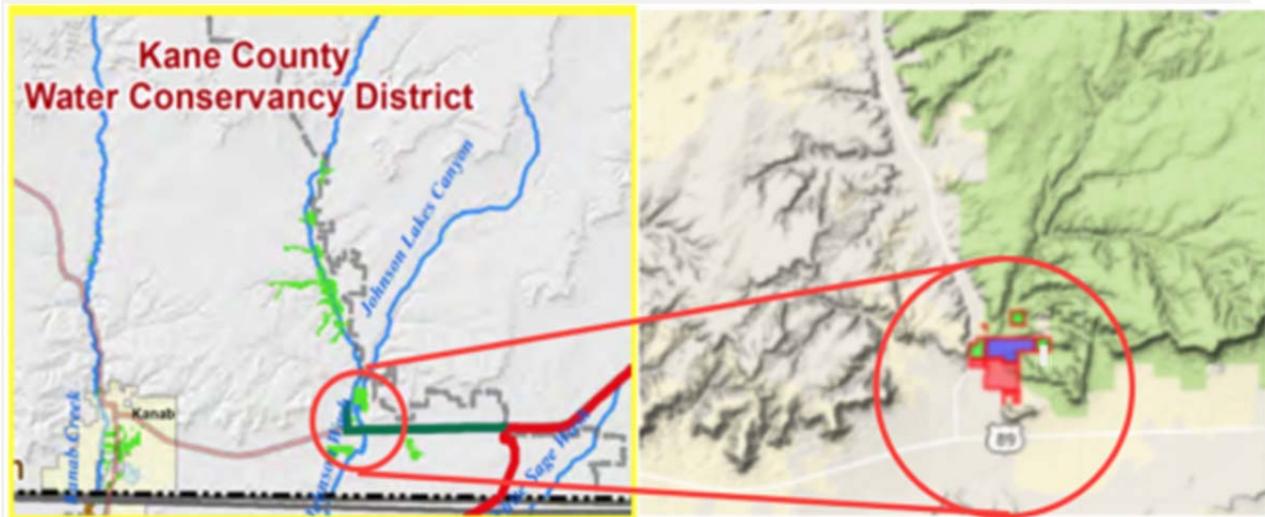
Noel, in the legislature, voted for the Lake Powell Pipeline Development Act (LPPDA) to authorize building the LPP. [[Meeting Minutes](#), Utah House Natural Resources, Agriculture, and Environment Standing Committee, 1/25/06] The LPPDA also created the Lake Powell Pipeline Management Committee, and Noel is a committee member; he told the committee that the KCWCD board of directors was “100 percent committed” to the LPP, even though he didn’t know KCWCD’s share of the cost of the project at the time. [[Meeting Minutes](#), Lake Powell Pipeline Management Committee, 9/11/08]

The assessment prepared for the Utah Division of Water Resources determined that KCWCD doesn’t need the LPP, as existing and new groundwater supplies are sufficient to meet all of the KCWCD’s water needs through the year 2060. The report said the KCWCD’s choice to participate in the LPP may be “simply out of convenience.” [[Utah Division of Water Resources](#)] When an engineering firm produced a report for KCWCD on the district’s projected future water needs to justify the LPP, Noel asked the firm to amend it because he did not think it projected enough water needs in the county. [October 2007 KCWCD minutes]

The Utah Division of Water Resources determined that one of the few areas under the KCWCD's jurisdiction that could benefit from the LPP is the "lower portions" of Johnson Canyon. This land has "substantial water quality issues," and LPP water could be used to "recharge" groundwater "in the Johnson Canyon area to extend the life of the groundwater basin," especially in lower Johnson Canyon. [[Utah Division of Water Resources](#)]

The Bureau of Land Management had concerns about the proposed LPP passing through GSENM, citing the "visual impacts" of a proposed booster pump station. BLM was also concerned about the location of the pipeline's high point regulating tank, which was proposed to be placed at a recreational trailhead in the monument. [[Meeting Minutes](#), Lake Powell Pipeline Management Committee, 3/19/10]

Location of Noel's Land in Lower Johnson Canyon



Left: Irrigated land served by KCWCD is in bright green [FERC folder (20151203-4007(31059550))]. The dark green shows how the route water from LPP would get to Johnson Canyon. The red line is the proposed LPP, which follows Highway 89. Right: Noel's Johnson Canyon agricultural land in bright green, blue and red. This map was created with data from the Kane County property searches.

Noel owns 749 acres of land in rural Kane County, both personally and through two companies (one of which he failed to disclose to the legislature, as required by Utah law). Most of this land is in lower Johnson Canyon, where the KCWCD serves 997 acres of irrigated land. [[Lake Powell Pipeline Water Needs Assessment](#), Utah Division of Water Resources, March 2011]

A map filed with the Federal Regulatory Energy Commission (FERC), the agency responsible for reviewing LPP, show that these irrigated acres in the Johnson Canyon Basin include Noel's property in the same area. (We believe, but have not confirmed, that Noel's land accounts for a significant

portion of the 997 acres of land irrigated with KCWCD water in Johnson Canyon.)

Did Noel help redraw the GSENM boundaries to ease the way for the LPP?

Does the Department of Interior know about this conflict of interest?

Noel's KCWCD could Profit from Selling Water Rights to Fossil Fuel Extractors

Noel's KCWCD, which he has run since 1996, [owns](#) the water rights from the once-proposed Andalex coal mine in GSENM. With the new boundaries, the value of those rights could go up.

When President Clinton designated the GSENM, he stopped Andalex Coal from opening a mine on a site now within the monument boundaries. Andalex donated the \$20 million in water rights it owned to Noel's KCWCD. [[E&E](#), 7/13/16]

Another Broken Promise to Native Americans

Noel and extractive industries will benefit from the redrawn boundaries, but Native Americans will suffer. Noel is leading the way as the federal government reneges on its deal with Native Americans to protect Bears Ears. As the L.A. Times put it:

It is hallowed ground for the Navajo and other Native American tribes whose ancestors scaled cliffs to build stone settlements on ledges and alcoves beneath trackless mesas.

Eleven months ago, descendants of these ancient people notched one of the great political achievements in Native American history. Following 14 months of government-to-government negotiation between the United States and five Native American tribes, President Obama signed Proclamation 9558.

The proclamation, made under the presidential authority of the Antiquities Act to protect public lands, conserves over 100,000 Native American archaeological and cultural sites within the newly established 1.35-million-acre Bears Ears National Monument.

Much of the history of Native Americans in the centuries after European settlement is a ledger of lost land — getting pushed off lands they considered sacred. This time, they gained protection for their land in a way that had never happened before.

That achievement is now under siege by the Trump administration, also in an unprecedented way.

After five years of extensive cultural mapping, the Bears Ears Inter-Tribal Coalition – comprised of the Navajo, Hopi, Ute Indian Tribe, Ute Mountain Ute, and Zuni Tribes – submitted a proposal to the previous administration requesting the 1.9 million acres be protected. The final monument area covered 1.3 million acres.

Despite [widespread support among Native Americans](#) for Bears Ears, Noel and other politicians have been trying to convince us otherwise. Noel even claimed that Native Americans who support Bears Ears were a “[charade](#)” orchestrated by environmental organizations and called for an investigation, which Navajo Nation Council said was “insulting.” Noel also said claims that looting happens in Bears Ears are a “scam,” and that only [badgers dig up artifacts](#). In an astonishing [interview](#) with National Public Radio’s Weekend Edition, Noel continued his disparaging remarks about local Native Americans:

GARCIA-NAVARRO: ...that oppose this. Six out of seven Navajo chapter houses in Utah oppose reducing the size of Bears Ears. Looting and vandalism of Navajo gravesites has been a huge problem.

NOEL: OK. Let’s talk about a couple of things. I do represent the Utah Navajo. The tribal people – if you go down into the reservation in Window Rock, in those areas, I can talk to nine out of 10 Native Americans there – some of my own relatives – and they would tell me that they don’t even know what the Bears Ears is about. They don’t even know what the monument is. They don’t have a clue...

Background on Mike Noel and the Kane County Water Conservancy District

Michael E. Noel has been a member of the Utah House of Representatives since 2002. He serves as chair of the powerful House Rules Committee, which sets rules for each legislative session and is responsible for recommending which bills in the Utah legislature are referred to committee.

Noel has also been the executive director of the Kane County Water Conservancy District (KCWCD) since 1996. KCWCD is a subdivision of the state of Utah that controls water infrastructure in rural Kane County.

Additionally, Mike Noel owns and operates a ranch in Johnson Canyon. Noel grazes cattle on land he owns and also has grazing leases through the Bureau of Land Management, including leases on allotments within Grand Staircase-Escalante National Monument. Noel has been described as “a successful hay grower.”

Mike Noel has built a reputation for hard-lined conservatism and a disdain for federal land management agencies. His brash style has antagonized

environmental advocates for decades; he recently said that “tree huggers and bunny lovers” are to blame for forest fires.

Mike Noel owns \$1.29 million worth of land through an LLC that he does not disclose on his personal financial disclosure form.

Michael E. Noel is the registered agent for Noel Properties, LLC, which is active and in good standing. It was first registered in on 10/24/06. Documents filed with the state of Utah indicate that Noel is also the manager of this company. Noel amended the filings on 9/30/17 to remove his deceased wife, Sherry Noel, as a registered principal. The records say the “business purpose” of Noel Properties LLC is “other crop farming.” [[Noel Properties LLC](#), Utah.gov, accessed 11/30/17]

Noel Properties LLC owns seven properties with a combined value of \$1.29 million in Kane County. [[Search results for Noel Properties](#), Kane.utah.gov, accessed 11/30/17]

Legislators in Utah, as constitutional officers, are required to complete Conflict of Interest and Financial Disclosure forms annually that includes every entity for which the legislator “is an owner or officer,” and “a brief description of the business or activity conducted by the entity.” [“[Title 20A Chapter 11 Part 16 Section 1604](#),” le.utah.gov, accessed 11/30/17]

A Utah law passed in 2014 says that legislators’ financial disclosure forms “shall include...for each entity in which the regulated officeholder is an owner or officer... the name of the entity... a brief description of the type of business or activity conducted by the entity... and the filer’s position in the entity.” [[H.B. 394 Campaign Finance Revisions](#), le.utah.gov, accessed 11/30/17]

None of Mike Noel’s current or past financial Conflict of Interest and Financial Disclosure forms indicate his involvement with Noel Properties LLC. [[Michael E. Noel](#), le.utah.gov, accessed 9/30/17]

Mike Noel is an outspoken advocate of the Lake Powell Pipeline (LPP), a controversial, \$2 billion project that would divert water from the Colorado river as it passes through Utah. Noel has used his positions as a legislator and the executive director of KCWCD to advocate for LPP.

Noel shepherded bills through the legislature to promote the LPP, including the Lake Powell Pipeline Development Act. [[Meeting Minutes](#), Utah House Natural Resources, Agriculture, and Environment Standing Committee, 1/25/06]

Noel is a member of the Lake Powell Pipeline Management Committee, which was created by the Lake Powell Pipeline development act to oversee the development of the LPP. Noel told the committee that the KCWCD board of

directors was “100 percent committed” to the LPP, even though he did not know what KCWCD’s share for the cost of the project would be at the time. [[Meeting Minutes](#), Lake Powell Pipeline Management Committee, 9/11/08]

Mike Noel promotes the LPP in public. He told the Washington County Republican Women that the LPP would help “reach the vision of Brigham Young” to populate Southwest Utah similarly to the Wasatch Front, which Noel said is his vision as well. [Julie Applegate, “[Noel tells Republican women thoughts on Lake Powell Pipeline, monument designations](#),” *St. George News*, 1/6/17]

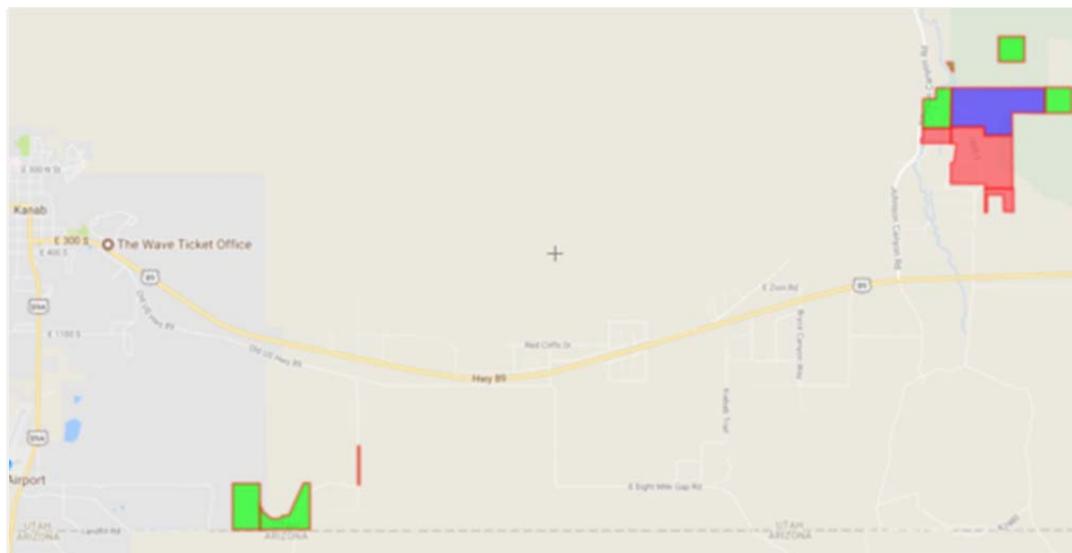
When an engineering firm produced a report for KCWCD on the district’s projected future water needs to justify the LPP, Noel asked the firm to amend it because he did not think it projected enough water needs in the county. [October 2007 KCWCD minutes]

Mike Noel is a major customer of Kane County Water Conservancy District. Noel owns 749 acres of land in rural Kane County, both personally and through two companies. Noel’s landholdings could explain why he advocates for the controversial Lake Powell Pipeline (LPP) despite its “limited” benefit to water users in Kane County.

The majority of Noel’s land is in the lower part of Johnson Canyon. Maps from the Federal Regulatory Energy Commission (FERC), the agency responsible for reviewing LPP, show that the Johnson Canyon Basin includes 997 acres of irrigated land serviced by KCWCD. (We think, but are not yet sure, that Noel’s land accounts for a significant portion of the 997 acres of land irrigated with KCWCD water in Johnson Canyon.) This lower portion of Johnson Canyon is also plagued by water quality issues, which Noel says has caused water rights to be “taken offline.”

While the state of Utah says the Lake Powell Pipeline would have “a limited service area” within KCWCD, it says that the LPP would greatly benefit and “extend the life of the groundwater” in lower Johnson Canyon, where Noel’s irrigated land is.

The majority of Noel’s land is in Kane County’s Johnson Canyon, where Noel grazes cattle and is a “successful hay grower.” Photos of Noel’s land show that he uses irrigation. [[Salt Lake City Weekly](#), 5/13/15]



This map shows all of Noel's land in Kane County. His agricultural land, shown on the right side of this map, is east of Kanab and straddles the Grand Staircase-Escalante National Monument.

GREEN: Noel Properties, LLC RED: CSM Agriculture BLUE: Mike and Sherry Noel
PALE GREEN: Grand Staircase-Escalante National Monument



In a PBS documentary, Mike Noel was filmed on his ranch east of Kanab. B-roll in the video shows an irrigation system on his property. [John Howe, "Wilderness: The Great Debate," PBS, re-aired 4/1/15(13:37 and 13:51)]

KCWCD serves 997 acres of irrigated land in the Johnson Canyon basin.

[[Lake Powell Pipeline Water Needs Assessment, Utah Board of Water Resources](#), March 2011]. This irrigated land overlaps with land owned by Noel Properties LLC, a company Noel owns but does not disclose on the Conflict of Interest and Financial Disclosure forms required of Utah legislatures. In total,

Noel owns \$1,291,748 worth of land through that company (as explained above).

The Utah Division of Water Resources determined that one of the few areas under the KCWCD's jurisdiction that could benefit from the LPP is the "lower portions" of Johnson Canyon, where Noel's land appears to be. This land has "substantial water quality issues." Overall, the assessment said the LPP would have "a limited service area within KCWCD," but LPP water could be used to "recharge" groundwater "in the Johnson Canyon area to extend the life of the groundwater basin," especially in lower Johnson Canyon, which has the highest per liter TDS. [[Utah Division of Water Resources](#)]

The assessment prepared for the Utah Board of Water Resources determined that KCWCD doesn't need the LPP, as existing and new groundwater supplies are sufficient to meet all of the KCWCD's water needs through the year 2060. The report said the KCWCD's choice to participate in the LPP may be "simply out of convenience." [[Utah Board of Water Resources](#)]

Noel was aware of Utah Division of Water Resources assessment when he advocated for the pipeline in a meeting of the Lake Powell Pipeline Management Committee, a body which was established by the Lake Powell Development Act to oversee the pipeline's construction. As executive director of KCWCD, Noel was a member of the Lake Powell Pipeline Management Committee. [[Lake Powell Pipeline Development Act](#)]

Noel said that some of the water in the Johnson Canyon area is so high in total dissolved solids (TDS) that water rights "have been taken offline." He pointed out that using LPP water in these places would be much cheaper than cleaning it with reverse osmosis. [[LPP Management Committee Minutes, 10/14/15](#)]

Mike Noel's agricultural operation has received a total of \$267,958.29 in federal agricultural subsidies and disaster relief payments between 1995 and 2016.

Between 1995 and 2016, Michael Noel received \$156,471.53 in ag subsidies. Of that amount, Mike Noel received \$30,713 in conservation payments, \$127,674 in disaster payments, and \$84 in commodity subsidies for oats. [["USDA subsidy information for Michael Noel,"](#) EWG Farm Subsidy Database, accessed 11/13/17]

Between 1995 and 2016, Sherry Noel (Mike Noel's wife, who died in January 2016) received \$111,486.76 in ag subsidies, including \$111,423 in disaster subsidies and \$64 in commodity payments for oats. [["USDA subsidy information for Sherry Noel,"](#) EWG Farm Subsidy Database, accessed 11/13/17]

KCWCD pays Mike Noel for right-of-way easements across his ranch property. Meeting minutes also suggest that KCWCD built a water connection and hydrants on Noel's property.

In May 2009, the KCWCD board of trustees voted to “approve a water connection and the necessary line for the water connection and hydrants for Mike. This would be an additional cost beyond the approximately \$4,000 the district owes Mike for the right of way easement across his ranch property.” Noel said he would “dig the lines for the connection and help with the installation.” [KCWCD Meeting Minutes, May 2009]

Mike Noel employs his daughter to work as his “kind of” secretary at KCWCD, but details on her employment are murky.

Jennifer Stewart, Mike Noel's oldest daughter, has worked at the KCWCD since June 2006 or before. Her title is currently listed as “executive secretary.” Noel referred to her as “kind of my secretary.” When KCWCD was accused of violating the Utah state nepotism law, Noel and the board decided she should “go back to being a contract employee working for him,” not the KCWCD.

On KCWCD's website, Jennifer Stewart, Mike Noel's oldest daughter, is listed as the “executive secretary.” The earliest archived version of KCWCD's website from June 2006 lists her as a “part-time secretary.” [[“Staff,”](#) kcwcd.com, accessed 11/09/17 and [“Contact Us,”](#) KCWCD.com, archived 6/26/06]

Describing Jennifer Stewart, Mike Noel said, “she's kind of been my secretary.” [[“A Story to Tell with Mike Noel,”](#) Southern Utah Live, 1/15/17 (06:40)]

At a meeting of the KCWCD board of Trustees in July 2017, Noel “discussed with the board the complaint letter sent to the state by an individual who felt we were violating the nepotism law. Mike and the board discussed this and decided that Jennifer should go back to being a contract employee working for him. The counsel given by (attorney) Legrand Bitner was that we make our own decision on how to handle this issue.” [KCWCD Meeting Minutes, July 2017]

The state of Utah has no records on its transparency website indicating that Jennifer Stewart has been employed at KCWCD since 2011, the earliest year for which it keeps records. In response to an open records request for information about staff compensation in 2017 (2016 is the latest year shown on the website), KCWCD gave us a table of staff and their salaries with no mention of Jennifer Stewart. After we pointed this out to KCWCD, office manager Amanda Buhler promptly sent a revised table indicating Jennifer Stewart was paid \$6,216.00 and said the information was not initially included

because “it was just a simple over look on my part.” [Amanda Buhler email to Brent Manning, 11/8/17]

In another email, KCWCD said it “does not have a copy of any contracts with Michael Noel or any Business entity he or his immediate family have interest in. Also we do not have an anti-nepotism policy.” [Amanda Buhler email to Lori Anderson, 11/16/17]

More than a year after Noel’s son-in-law purchased a truck from KCWCD to use on Noel’s Ranch, Noel had the district pay to repair it.

Mike Noel’s son-in-law purchased a Dodge pick-up truck from KCWCD at auction, likely at the end of 2015. In summer 2017, when the truck developed engine issues, KCWCD paid to fix the truck at Noel’s request.

The only mention of selling a truck that occurred in a 10-year review of KCWCD meeting minutes was in November 2015, when Mike Noel said that KCWCD would have a surplus sale on hauling trucks and 4x4 trucks. Noel told board members that they could bid on the vehicles. [KCWCD Meeting Minutes, November 2015]

In June 2107, Mike Noel told the KCWCD board of trustees that the truck his son-in law-purchased from KCWCD “for their ranching operation” had “numerous problems,” including a “defective motor which had to be replaced.” Noel said repairs would cost \$10,000 and asked the board if there was “any possibility of getting some money back to pay for the costs of the repairs.” The meeting minutes refer to this as “a personal issue.” [KCWCD Meeting Minutes, June 2017]

Mike Noel submitted a request for reimbursement to “to Trevor Stewart for the Flood Canyon Ranch for the Dodge Truck purchased from the Water District.” Noel said the Patrick Painter Dodge Dealership couldn’t do anything to help him “because Stephen Wade took over the dealership.” Noel said the repairs “cost the Flood Canyon Ranch over \$8,000.” Mike asked for reimbursement of half the cost, and the board voted favorably. [KCWCD Meeting Minutes, July 2017]

The board voted favorably again to fund the truck repair in August. After the vote, the board voted to advertise all future vehicle sales “as is.” [KCWCD Meeting Minutes, August 2017]

View the GRAMA documents [here](#).

View the BLM Map [here](#).

C A M P A I G N F O R

ACCOUNTABILITY

February 20, 2018

Honorable Sean D. Reyes
Attorney General
State of Utah
350 North State Street
Suite 230
Salt Lake City, UT 84114-2320

VIA EMAIL: UAG@Utah.gov

Dear Attorney General Reyes:

Campaign for Accountability respectfully requests that you investigate Utah State Representative Michael Noel (R-Kanab) for making false or deceptive statements, violating anti-nepotism rules, and failing to disclose conflicts of interest.

Background

Rep. Noel was appointed to the Board of Trustees of the Kane County Water Conservancy District (“KCWCD”) in 1992, stepping down to become its executive director in 1996.¹ Over the course of his legislative career, from 2003-present, Rep. Noel repeatedly has failed to disclose to the chief clerk of the House of Representatives his ownership in Noel Properties, LLC,² which owns land in Kane County worth approximately \$1.3 million.³

Further, on behalf of KCWCD, Rep. Noel has continually advocated for a proposal to develop the Lake Powell Pipeline (“LPP”), despite the fact that Johnson Canyon, where Rep. Noel owns a significant portion of the irrigated farmland, will uniquely benefit. Rep. Noel shepherded bills through the legislature promoting the LPP, including the LPP Development

¹ <http://www.kcwcd.com/about-us/staff/>.

² See Rep. Mike Noel, Conflict of Interest & Financial Disclosure Form for Calendar Year 2017, filed January 16, 2018, available at <https://le.utah.gov/house2/CofI/COFINOELME1.pdf>; Rep. Mike Noel, Conflict of Interest & Financial Disclosure Form for Calendar Year 2016, filed January 23, 2017, available at <https://le.utah.gov/house2/CofI/COFINOELME.pdf>; Rep. Mike Noel, Conflict of Interest & Financial Disclosure Form for Calendar Year 2015, filed December 16, 2015, available at <https://web.archive.org/web/20161222025123/http://le.utah.gov/house2/CofI/mnoel2.pdf>; Rep. Mike Noel, Conflict of Interest & Financial Disclosure Form for Calendar Year 2014, filed January 14, 2015, available at <http://le.utah.gov/house2/CofI/mnoel.pdf>; Rep. Mike Noel, Conflict of Interest & Financial Disclosure Form for Calendar Year 2010, filed December 20, 2011, available at <http://www.le.utah.gov/house2/CofI/noel.pdf>; Noel Properties, LLC, Articles of Incorporation, Utah Secretary of State, filed October 20, 2006; Noel Properties, LLC, Annual Report, Utah Secretary of State, filed September 30, 2017, available at <https://secure.utah.gov/besimage/search.html?entityNumber=6372427-0160>.

³ Property Summaries for Parcels 3-4.5-18-1; 3-4.5-20-1; 3-5-24-5; 4-5-6-2; K-16-22-ANNEX; 4-6-12-1; 3-5-13-7, Kane County, Utah, available at <https://eagleweb.kane.utah.gov/eaglesoftware/web/login.jsp>.

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Act.⁴ He is a member of the LPP Management Committee, which oversees development of the LPP,⁵ and has publicly advocated for the LPP.⁶

Rep. Noel also told the LPP Committee that KCWCD's board of directors was "100% committed" to the LPP without knowing KCWCD's total cost.⁷ As it turned out, an assessment prepared for the Utah Board of Water Resources determined that the KCWCD does not need the LPP, finding existing and new groundwater supplies sufficient to meet all of KCWCD's water needs through 2060.⁸ In response, Rep. Noel asked the firm that produced the assessment to amend the report to project greater water needs.⁹ Notably, the assessment determined that one of the few areas in KCWCD's jurisdiction that might benefit from the LPP, was the "lower portions" of Johnson Canyon,¹⁰ exactly where Rep. Noel's land is located.¹¹

Yet, it does not appear that Rep. Noel informed KCWCD of his ownership interest in the property. In addition, in May 2009, KCWCD owed Rep. Noel at least \$4,000 for an easement across his property.¹² KCWCD also installed a water connection and the necessary line and hydrant for Rep. Noel's use.¹³

Rep. Noel engaged in other questionable actions as well. According to KCWCD's website and newsletter, his daughter, Jennifer Stewart¹⁴, serves as the group's executive secretary,¹⁵ and apparently has held this position for more than a decade.¹⁶

⁴ Utah House Natural Resources, Agriculture, and Environment Standing Committee, Meeting Minutes, January 25, 2006, available at <https://le.utah.gov/~2006/minutes/HNAE0125.htm>.

⁵ See <https://water.utah.gov/lakepowellpipeline/managementcommittee/default.asp>; <http://lpputah.org/lpp-management-committee/>.

⁶ Julie Applegate, Noel Tells Republican Women Thoughts on Lake Powell Pipeline, Monument Designations, *St. George News*, January 6, 2017, available at <http://www.stgeorgeutah.com/news/archive/2017/01/06/jla-noel-favors-pipeline-for-massive-growth-opposes-monument-designations/>.

⁷ LPP Management Committee, Meeting Minutes, September 11, 2008, available at <https://water.utah.gov/lakepowellpipeline/managementcommittee/Approved%20Minutes/MINUTES-LPP%209-11-08.pdf>.

⁸ Utah Department of Natural Resources, Utah Division of Water Resources, Lake Powell Pipeline Study Water Needs Assessment, Draft, prepared by MWH, March 2011, available at <http://www.riversimulator.org/Resources/Purveyors/LPPipeline/19DraftWaterNeedsAssessmentReport.pdf> "LPP Water Study", pg. ES-24.

⁹ KCWCD Board of Trustees, Meeting Minutes, October 11, 2007, available at <https://www.documentcloud.org/documents/4378332-CfA-Noel-Complaint-Oct-11-2007-Meeting-Minutes.html>.

¹⁰ LPP Water Study at 4-93.

¹¹ Preliminary Licensing Proposal, Lake Powell Pipeline, Utah Board of Water Resources, Federal Energy Regulatory Commission, Docket P-12966, Accession Number 20151203-4007, EZ_Fig_5_4_Major_Water_Uses_Map_11x17_Landsc_10_13_15.PDF, available at https://elibrary.ferc.gov/idmws/File_list.asp?document_id=14405464; *Supra* fn.3.

¹² KCWCD Board of Trustees, Meeting Minutes, May 14, 2009, available at <https://www.documentcloud.org/documents/4378336-CfA-Noel-Complaint-May-14-2009-Meeting-Minutes.html>.

¹³ *Id.*

¹⁴ See <http://www.legacy.com/obituaries/deseretnews/obituary.aspx?pid=177290360>.

¹⁵ See www.kcwcd.com/about-su/staff/; The newsletter describes Ms. Stewart as "on a contract to work as the executive secretary for KCWCD." *The KCWCD Pipeline*, Winter 2017, available at www.kcwcd.com/wp-content/uploads/2018/01/2018-Winter-Newsletter.pdf.

¹⁶ <https://web.archive.org/web/20060626212833/http://www.kcwcd.com:80/html/contact.html>.

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Ms. Stewart's role with KCWCD has been recognized as a problem. Indeed, in 2017, at a meeting of KCWCD's Board of Trustees, Rep. Noel "discussed with the board the complaint letter sent to the state by an individual who felt we were violating the nepotism law."¹⁷ In response, Rep. Noel decided to turn Ms. Stewart into "a contract employee working for him."¹⁸

Notably, when questioned about Ms. Stewart's contract, KCWCD wrote an email stating it "does not have a copy of any contracts with Michael Noel or any Business entity he or his immediate family have interest in. Also we do not have an anti-nepotism policy."¹⁹ Nevertheless, KCWCD does have a record of paying Ms. Stewart \$6,216 in 2017.²⁰

In addition, in November 2015, on behalf of KCWCD, Rep. Noel held a surplus sale on water hauling and 4x4 trucks, selling a Dodge truck to his son-in-law, Trevor Stewart, for use at Rep. Noel's Flood Canyon Ranch.²¹ In July 2017, Rep. Noel persuaded the Board to pay at least \$4,000 to repair alleged problems with the same truck, including replacing its engine.²²

Violations of Utah Law

Filing Inaccurate Financial Disclosure Forms and Failing to Reveal Conflicts of Interest

As you know, Utah law requires state representatives to file financial disclosure forms identifying "each entity in which [the legislator] is an owner or officer."²³ The disclosure must include the entity name, a description of the business and the representative's position in the entity.²⁴ Further, the form specifically provides that the person signing the form attests that the information "is true and accurate to the best of the [representative's] knowledge."²⁵ Nevertheless, on the forms he submitted from 2015-2018, Rep. Noel failed to identify Noel Properties, LLC.²⁶

Further, intentionally failing to include information about Noel Properties on his disclosure forms appears to constitute a false statement. Under Utah law, a person commits a

¹⁷ KCWCD, Board of Trustees, Meeting Minutes, July 20, 2017, available at <https://www.documentcloud.org/documents/4378351-CfA-Noel-Complaint-July-20-2017-Meeting-Minutes.html>.

¹⁸ *Id.*

¹⁹ Email from KCWCD Office Manager Amanda Buhler to Lori Anderson, November 16, 2017, available at <https://www.documentcloud.org/documents/4378324-CfA-Noel-Complaint-Nov-16-2017-Email.html>; Email from KCWCD Office Manager Amanda Buhler to Nova Dubovik, *et. al*, November 8, 2017, available at <https://www.documentcloud.org/documents/4378317-CfA-Noel-Complaint-Nov-8-2017-Email.html>.

²⁰ KCWCD Table of Salaries, 2017.

²¹ KCWCD Meeting Minutes, November 12, 2015, available at <https://www.documentcloud.org/documents/4378337-CfA-Noel-Complaint-Nov-12-2015-Meeting-Minutes.html>; KCWCD Meeting Minutes, June 8, 2017, available at <https://www.documentcloud.org/documents/4378346-CfA-Noel-Complaint-June-8-2017-Meeting-Minutes.html>; Rep. Mike Noel, Conflict of Interest & Financial Disclosure Form for Calendar Year 2017, filed January 16, 2018.

²² KCWCD Meeting Minutes, July 20, 2017, available at <https://www.documentcloud.org/documents/4378351-CfA-Noel-Complaint-July-20-2017-Meeting-Minutes.html>.

²³ Utah Code Ann. § 20a-11-1604(3)(b) and (d).

²⁴ Utah Code Ann. § 20a-11-1604(4)(d).

²⁵ Utah Code Ann. § 20a-11-1604(4)(n).

²⁶ *See supra* fn. 2.

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misdemeanor if he “makes a written false statement which he does not believe to be true on or pursuant to a form bearing a notification authorized by law to the effect that false statements made therein are punishable.”²⁷

Similarly, it is also a misdemeanor to knowingly make a false entry in anything “belonging to, received, or kept by the government for information or record, or required by law to be kept for information of the government,” or to intentionally conceal or otherwise impair the verity of records, knowing that concealment is unlawful.²⁸

Utah law also requires legislators to orally disclose conflicts of interest prior to votes that might impact them.²⁹ It appears there have been at least three votes related to the LPP over the last 12 years,³⁰ and, on information and belief, it does not appear Rep. Noel revealed his ownership interest in the Johnson Canyon properties and the potential conflict of interest that interest posed.³¹ Intentionally failing to disclose such information on his financial disclosure forms and failing to reveal the conflict prior to a vote are both misdemeanors.³²

When recently confronted about his failure to disclose his interest, Rep. Noel claimed the property was disclosed because he files taxes every year on the land.³³ He did not dispute, however, that he had failed to list the property on his financial disclosure forms, nor did he state that he had otherwise publicly disclosed his ownership interest. As you are no doubt aware, individual tax returns – even of elected state representatives – are not public documents. The fact that Rep. Noel filed accurate tax returns does not relieve him of other disclosure obligations.

Therefore, by repeatedly failing to disclose his ownership of Noel Properties, and by failing to disclose that ownership and resulting conflicts of interest before votes impacting his property interest, Rep. Noel appears to have committed numerous violations of Utah law.

²⁷ Utah Code § 76-8-504(1).

²⁸ Utah Code § 76-8-511(1), (3).

²⁹ Utah Code § 20(a)-11-1604(1).

³⁰ Utah House Roll Call votes on S.B. 80 (2016); S.B. 281 (2015); and S.B. 27 (2006)

³¹ Neither the KCWCD website nor any other Utah government website has conflict of interest statements for KCWCD trustees or staff, and KCWCD did not produce any conflict of interest forms in response to a September 11, 2017 GRAMA request.

³² Utah Code § 20(a)-11-1604(11) and (12). While misdemeanors generally carry only a two-year statute of limitations, Utah Code § 76-1-302(1)(b), if Rep. Noel conspired keep this information secret from the House, deliberately omitting it from his financial disclosure forms year-after-year and failing to reveal the conflict before votes, he may have committed conspiracy to violate the disclosure rules. And, if that is correct, his failure to reveal the information on his 2017 forms could constitute an overt act in a continuing offense, thereby tolling the limitations period.

³³ Taylor W. Anderson, Rep. Mike Noel’s Company Owned Land Inside Grand Staircase-Escalante While he Fought Against the Monument, *Salt Lake Tribune*, February 14, 2018, available at <https://www.sltrib.com/news/politics/2018/02/14/it-looks-as-if-rep-mike-noels-company-owned-land-inside-grand-staircase-escalante-while-he-fought-against-the-monument/>.

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Failure to Disclose Conflicts of Interest and Misuse of Public Money

Utah law requires public employees who own a substantial interest in any business entity subject to the regulation of the agency in which the employee works to disclose any position held and the nature and value of the employee's interest.³⁴ The law requires disclosures by sworn statement made in writing,³⁵ and prohibits employees from receiving any "compensation in respect to any transaction between the state or any of its agencies and any business entity" as to which the employee "is also an officer, director," or "owns a substantial interest, unless disclosure has been made."³⁶ It is a felony to receive compensation of more than \$1,000,³⁷ and a knowing and willful violation requires a public official be removed from office.³⁸

In his role as KCWCD executive director and as a legislator, Rep. Noel has advocated for the development of the LPP, which would provide him unique financial benefits, despite the fact that the LPP actually may be a bad deal for KCWCD. Further, again through his role as executive director, Rep. Noel has been able to have KCWCD pay him \$4,000 for an easement across his land, and provide a hydrant and water line for his use. If Rep. Noel did not reveal his interests in writing, he may have received compensation in violation of the law.

In addition, Rep. Noel auctioned KCWCD's vehicles, allowing his son-in-law to purchase a truck for use on Rep. Noel's property. Then, almost two years later, when the truck required repair, Rep. Noel went back to KCWCD to recoup about \$4,000 to defray the cost of those repairs.³⁹

It is a felony for any public officer charged with the receipt, safekeeping, transfer, disbursement or use of public money to appropriate any portion of that money to his own use or benefit or the use or benefit of another.⁴⁰ Further, any public officer – regardless of whether or not that officer has a fiduciary relationship with public money – who makes a profit from or out of public money is guilty of a felony.⁴¹ Moreover, any officer who violates these provision is disqualified from holding public office.⁴²

Whether or not Rep. Noel's sale of the truck to his son-in-law – a transaction that seems to have accrued to the benefit of Rep. Noel personally as well as to that of his son – violates the law, the \$4,000 cash payment appears to fall squarely within the law's prohibitions. In addition, the sale of the truck may, in itself have violated another law that requires state agencies (which

³⁴ Utah Code § 67-16-1.

³⁵ Utah Code § 67-16-7(2)(b).

³⁶ Utah Code § 67-16-(8)(1).

³⁷ Utah Code § 67-16-12(2).

³⁸ Utah Code § 67-16-14.

³⁹ KCWCD Meeting Minutes, July 20, 2017, available at <https://www.documentcloud.org/documents/4378351-CfA-Noel-Complaint-July-20-2017-Meeting-Minutes.html>.

⁴⁰ Utah Code § 76-9-402(1)(a), (2).

⁴¹ Utah Code § 76-8-404.

⁴² *Id.*

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would include the KCWCD) to auction and/or sell vehicles through the state's Division of Purchasing and General Services.⁴³

Violations of Anti-Nepotism Statute

Utah law essentially bars a public officer from supervising a relative and an employee may not accept employment from a relative.⁴⁴ Each day a relative works for and is paid from public funds constitutes a separate violation.⁴⁵ Violations are criminal misdemeanors.⁴⁶

By hiring and supervising his daughter at KCWCD for more than a year Rep. Noel appears to have committed **a minimum of 365 counts** of anti-nepotism violations.

Conclusion

Rep. Noel appears to have committed numerous violations of Utah conflict of interest and anti-nepotism laws. Further, relying on his credibility and authority as a Utah state legislator and KCWCD board member, Rep. Noel appears to have persuaded other local officials to make decisions that accrued to his personal financial interest, but that may not be in the interest of Utah taxpayers. The Attorney General's office has named white collar fraud and government ethics as top priorities. Therefore, your office should immediately investigate whether Rep. Noel has abused his government position, and if so, hold him accountable.

Thank you for your prompt attention to this matter.

Sincerely,



Daniel E. Stevens
Executive Director

Encls.

cc: Hon. John Dougall, State Auditor

⁴³ Utah Code § 63A-2-401(3)(a).

⁴⁴ Utah Code § 52-3-1(b), (c).

⁴⁵ Utah Code § 52-3-2.

⁴⁶ Utah Code § 52-3-3.

<https://www.sltrib.com/news/2018/02/21/national-ethics-group-calls-for-investigation-of-utah-rep-mike-noel-for-failing-to-disclose-conflicts-of-interest/>

National ethics group calls for investigation of Utah Rep. Mike Noel ‘for failing to disclose conflicts of interest’

[By Brian Maffly](#)

Published: February 21

Updated: February 22, 2018

Utah Rep. Mike Noel’s apparent [failure to disclose significant land holdings](#) worth \$1.2 million near and in the Grand Staircase-Escalante National Monument has prompted a formal ethics complaint and an inquisitive letter from a Democratic congressman to the Interior Department.

Last week, the environmental group [Western Values Project \(WVP\)](#) released an analysis showing the irrigated land Noel owns in Kane County’s Johnson Canyon poses a potential, yet undisclosed conflict of interest.

Noel’s legislative efforts to shrink the monument and win approval for the Lake Powell pipeline could benefit him personally, the group argued — but are not mentioned in legally required conflict-of-interest disclosures on file with the Utah Legislature.

The [Campaign for Accountability](#), a liberal ethics watchdog based in Washington, D.C., is now asking Utah Attorney General Sean Reyes to look into the matter. A complaint filed Tuesday accuses Noel of breaking state anti-nepotism laws and violating his fiduciary duty in his role as longtime executive director of the Kane County Water Conservancy District.

Noel continues to advocate for the costly pipeline project to carry Colorado River water from Lake Powell to 13 southern Utah communities including St. George — even though the state Division of Water Resources has concluded the Kane district’s groundwater supplies will meet its needs through 2060, according to the complaint sent to Reyes.

“Rep. Mike Noel has left no stone unturned in his decade long campaign to channel public money into his own pocket,” said Daniel Stevens, Campaign for Accountability’s executive director. “He’s paid his daughter to work for him, and he used taxpayer money to fix his son-in-law’s broken truck. Now he wants the public to fund a billion-dollar pipeline that would uniquely benefit his own ranch. The people of Utah deserve to know if one of their elected representatives is using their money for his own personal financial benefit.”

Noel did not respond to an email seeking comment, but last week he dismissed concerns about his land holdings as “fake news” and “BS,” suggesting he is being targeted by liberal groups because of his controversial stands on public lands.

But the flap spurred a Feb. 16 letter of inquiry to U.S. Interior Secretary Ryan Zinke, asking whether the agency was ever informed of Noel's land holdings during the decision-making process behind the recent reduction of the Grand Staircase-Escalante National Monument. Rep. Raul Grijalva, D-Ariz., noted that Noel was deeply involved in that process.

"Rep. Noel's failure of transparency and the Interior Department's apparent failure to learn of this financial stake in a major policy decision have national consequences," wrote Grijalva, the ranking member of the House Natural Resources Committee. "This episode needs to be remedied and cannot be repeated."

According to the Western Values Project's property analysis, one 40-acre parcel appears to have been carefully cut out of the monument under the reduction order signed by President Donald Trump on Dec. 4 at Zinke's recommendation.

Noel has told The Tribune he never asked for his property to be carved out and doubted he would benefit from the change.

At a gathering hosted Thursday by the advocacy group Foundation for Integrated Resource Management, Noel went on the attack but offered nothing to rebut the basic facts of WVP's claims.

Instead, he asserted that the Johnson Canyon land is owned by the Michael Noel and Sherry Noel Living Family Trust.

Available documents, however, indicate the parcels in question were transferred to Noel Properties LLC in 2012, where they remain. Neither the family trust nor Noel Properties LLC is listed on Noel's conflict-of-interest forms, filed with the Legislature over the past four years.

Noel has suggested he met the disclosure requirement by paying taxes on the properties, a claim WVP executive director Chris Saeger dismissed as "a joke."

"Facts are facts: Public records show this land is owned by a [limited-liability corporation] that Mike Noel did not disclose to the Legislature," he said. "The whole point of those disclosures is to reveal conflicts of interest, and not even Mike Noel should be above the law."

The disclosure forms ask lawmakers to list real property they own that could constitute a conflict of interest.

Noel's forms listed Flood Canyon Ranch, Lost Spring Gap Ranch and CMS Agriculture Ranch. He told The Tribune that Noel Properties, which is not mentioned on the forms, is the corporate name for Flood Canyon Ranch.

<https://www.motherjones.com/environment/2018/05/god-said-make-the-desert-bloom-and-mormons-are-using-biblical-amounts-of-water-to-do-it/>

God Said to Make the Desert Bloom, and Mormons Are Using Biblical Amounts of Water to Do It

“It’s seen as a prophecy to be fulfilled in the last days.”

[Nathalie Baptiste](#) May. 9, 2018 6:00 AM

Utah is one of the driest states in the country, but you couldn’t tell by how much water its residents are using. The average American uses between 80 and 100 gallons a day. In Utah, each individual consumes approximately [248 gallons](#) of water a day.

Are they taking exceptionally long showers? Even that would not explain the excessive use of water, which is, in fact, the result of an unusual combination of biblical prophecy and Utah history. The Mormons of Utah—who account for [more than 60 percent](#) of the state’s population—have long been determined to transform the desert and fulfill the prophecy of Isaiah 35:1, which states that “the wilderness and the solitary place shall be glad for them; and the desert shall rejoice, and blossom as the rose.” For Mormons, this holds a deep meaning. “It’s seen as a prophecy to be fulfilled in the last days,” says Brian Cannon, a historian specializing in Utah at Brigham Young University. “Their efforts to reclaim the desert land and their success has divine approval.”

The use of water in Utah roughly breaks down this way. Municipal water use only accounts for 16 percent of the state’s water usage; agriculture makes up the rest. But [72 percent of municipal water](#) is used outdoors—watering residential lawns, the greenery at government institutions and schools, and golf courses. By contrast, outdoor water use by the 4 million customers served by the Los Angeles Water and Power Department is [40 percent](#).

Utah’s overconsumption of water is partly because water is cheap, and in many municipalities, users pay flat rates for it. Most comparable municipalities use a tier structure, so those who use less water have lower water bills, but not so in Utah. According to the Utah Rivers Council, residents of St. George pay about [\\$1.20 per thousand gallons](#) once they’ve reached 5,000 gallons of water. When they reach the threshold of 30,000 gallons, that number only increases by 43 cents. Las Vegas water users pay \$4.72 per thousand gallons for 30,000 gallons of water.

“There’s this idea that water leaving Utah in a river, or water entering the Great Salt Lake, is wasted because man is not using it. It’s sort of like Manifest Destiny.”

The state’s practice of [subsidizing water with property taxes](#) offers no incentive for limiting its use. When water experts and those concerned about conservation talk about using less water,

there is swift pushback from legislators and water suppliers. “There’s this idea that water leaving Utah in a river, or water entering the Great Salt Lake, is wasted because man is not using it,” Zach Frankel, the executive director of the Utah Rivers Council, explains. “It’s sort of like Manifest Destiny.”

A sense of Manifest Destiny has been part of the deeply entwined history of Utah and the Church of Jesus Christ of Latter-day Saints. Mormons in Missouri and Illinois began looking for a new home in the mid-1840s after their leader, Joseph Smith, was assassinated in 1844, and neighbors became increasingly hostile over their practice of polygamy. Based on the recommendation of explorer and presidential candidate John C. Fremont, the Mormons headed for what would later become Utah, an isolated desert where they would be cut off from the rest of the world.

But the journey from the Midwest to the desert wasn’t an easy one. “They likened themselves to Israelites being led through the desert by the American Moses,” Cannon says, referring to Brigham Young, who was the president of the Mormon church from 1847 to 1877. Eventually, “Mormons invested in an effort in colonizing and reclaiming the area,” transforming the desert into a stable place where they could irrigate and grow crops. Soon, the region thrived.

St. George is one of the driest places in Utah and the seat of rural Washington County. Unlike the northern portion of the state, which is home to the Wasatch Mountains, St. George has no ski resorts. Just 120 miles from Las Vegas, the city gets [less than nine inches](#) of rain annually. But despite these conditions, St. George is a green and vibrant place, possibly due to the fact that water consumption there is between [289 to 325 gallons](#) per person a day. Currently, that [water comes from the Virgin River](#), a tributary of Lake Meade which is a reservoir on the Colorado River. The river, which is vital to 40 million people in seven states, is straining to keep up with demand.

But local leaders and water suppliers have convinced residents in southwestern Utah that there may be water shortages in the future—but not to inspire conservation practices. In 2006, state lawmakers [passed legislation](#) proposing a controversial pipeline that would bring more than [86,000 acre feet](#) of water, which is [77 million gallons](#) a day, to the southwest region of the state. The proposed pipeline, which is being managed by the Utah Division of Water Resources, will run 140 miles from [Lake Powell](#), a Colorado River reservoir that straddles Utah and Arizona, to southwest Utah. It’s expected to cost [\\$2 billion](#).

Proponents have argued that because the state’s population is expected to grow by half a million people by 2065, the pipeline is essential. “We’ve got to have that Lake Powell Pipeline in Washington County if we want to continue to grow,” state [Rep. Mike Noel said](#) at a luncheon with the Washington County Republican Women last year. “Maybe we’ll reach the vision of Brigham Young, and it’ll be like the Wasatch Front down here.” The Wasatch Front is the name for the population centers of Utah comprised of big cities including Salt Lake City and Provo. (In March, the Utah Rivers Council [filed a complaint](#) with the state attorney general alleging that Rep. Noel did not disclose his financial interests in the pipeline project.)

Environmentalists and water experts who oppose the pipeline disagree. “Utah is not running out of water,” Frankel said. The problem is that the rate of water consumption in the state is

unsustainable. And as a result of climate change, studies have shown, winter snowfall will shift to rain. Right now, about a [quarter of the water supply](#) in the West relies on snowpack, which, in turn, melts and fills reservoirs. Scientists are also predicting that in the coming decades, flow from the Colorado River will decrease by 20 to 25 percent, meaning the river will shrink, giving those in the region no choice but to conserve water.

As cities and states in the West adjust policies and priorities to [cope with climate change](#), Utah remains an outlier. The future of water conservation in Utah could also be at stake as some continue to attempt to make the desert bloom. But not everyone is on board with that project. “Not all Mormons see that linkage between water and biblical prophecy,” Cannon explains. “Many are wondering: Do we really need this much water?”

<https://www.outsideonline.com/2333236/utah-pipeline-water-shortage-st-george>

The Green Green Grass of Utah

Golf courses! Water parks! Man-made lakes! If Utah has its way, the retiree oasis of St. George will explode with growth, turning red rock to bluegrass and slaking its thirst with a new billion-dollar pipeline from the Colorado River.

Mark Sundeen

August 14, 2018

Let us now praise southern Utah!

I moved here the high-water spring of 1993, everything I owned in the car and my savings whittled to three hundred cash. The hitchhikers said Moab, so I dropped anchor in the red-rock oasis and spent the next decade dowsing: mossy seeps, wind-chime waterfalls, pollywog potholes. I guided the rivers—the Green, the San Juan, the Colorado—splashed up the slots of Canyonlands and [Escalante](#), and finally bought my own acre of promised land along a lazy creek sweet with Russian olives and fluffy with cottonwood duff. I loved the small scale of the desert towns. The Mormon pioneers did not develop the land for tourists, loading it with bars and resorts, but for themselves, placing a premium on self-sufficiency and community. The sandstone labyrinths, swaths of public land, and fine-just-the-way-it-is locals precluded it from becoming the California I had fled.

Turns out that my own migration to Utah wasn't unique. I was part of a historical exodus—let's call it the Golden Diaspora—beginning in the 1990s, when hordes of Californians split for the interior, jacking up home prices and residents' ire. By 2012, a whopping 12 percent of people born in California had moved to other western states; 8 percent of Utahns were born in California.

That's more than 200,000 of us asking the waitresses at Mom's Diner to sub avocado on that.

We'd also like some water, please. Utah is the second-driest state in the nation, and all that growth has strained the limited supply. The influx of newcomers has been most dramatic in sunny Washington County, where the average summer temperature hovers above 100 and the ground sees just eight inches of rain a year. Home of [Zion National Park](#) and the golfy sprawl of St. George, the county has jumped in population, from 26,000 to 165,000, since 1980; St. George is now the fastest-growing metropolitan area in America. The state forecasts that in 40 years the county will boom to half a million, which is like plunking down a whole new Albuquerque in the canyons.



St.

St. George, Utah (Mark Boster/Los Angeles Times/Getty)

Thirteen golf courses bloom green amid desert cliffs. Capillary culs-de-sac pulse with turf. Plans are under way for a Caribbean-slash-Polynesian water park with a 900-foot lazy river, a seven-story slide, and an artificial wave pool for surfers. Bulldozers just broke ground on a master-planned tract called [Desert](#)

[Color](#), where 33,000 souls will dwell near the shores of—get this—man-made lakes! The drawings show denizens tanning on white-powder beaches and SUPing across waters that glisten like chunks of turquoise in the 300 days of annual sunshine. Washington County, in fact, guzzles more water per capita than any metro area in the Southwest.

To keep the water flowing, the state plans to dip a six-foot-diameter straw into Lake Powell—a reservoir of the Colorado River 140 miles to the east—then suck the water 2,000 vertical feet through five pumping stations and six hydroelectric plants, crossing the Paria River and what used to be Grand Staircase–Escalante National Monument. The pipeline is currently mired in bureaucratic proceedings, but state leaders are pushing to get it permitted while President Trump is still in office, because his administration has proven friendly to industry. Ultimately, boosters predict, the [Lake Powell Pipeline](#) will deliver 86,000 acre-feet of water per year, enough to support a third of a million people. The price tag for that big hose: between \$1.1 billion and \$1.8 billion, more than twice as much in today’s dollars as the Golden Gate Bridge.

Utah has every legal right to its acre-feet, but the Colorado River is already overallocated. It waters seven states, including the megalopolises of Los Angeles, Phoenix, and Las Vegas. Plus, the river is suffering from 19 years of drought and rarely reaches the sea. If its two main reservoirs, Lake Powell and Lake Mead, remain low—Powell is at 52 percent of capacity, Mead at 39 percent—everyone will have to start cutting back.

“There is no lack of water here,” Edward Abbey mused about the arid West, “unless you try to establish a city where no city should be.”

As I set out to investigate the proposed pipeline, I sped northeast on Interstate 15 from the Las Vegas airport. My wife and I live in Albuquerque now, but we’ll never give up our single-wide trailer in Utah. Crossing the Mojave, I thought of the dozens of times I’d driven between Los Angeles, where I grew up and my parents still live, and Moab. I climbed the Virgin River Gorge to my beloved jumble of stone and sand, green mountains jutting up from the horizon. Coasting into St. George, the white steeple of its Mormon temple pushing toward heaven, I embraced my L.A. roots and followed the signs to an In-N-Out

Burger, where I housed a Double-Double with fries. It was February, 70 degrees, blue skies, and infinite sun. From my umbrellaed picnic table, I had direct line of sight on Del Taco, El Pollo Loco, Jack in the Box, Bed Bath and Beyond, and Best Buy.

The battle over the pipeline is a proxy for the debate on growth: Can towns decide how big they want to be, or are they beholden to the same global market forces that have replaced mom-and-pop shops with big-box chains? Growth is something every town grapples with, but here in the desert it's strictly limited by available water.

From my hotel Jacuzzi, I phoned Mike Noel, a state legislator and pipeline booster, and asked how he felt about St. George growing to the size of Albuquerque or Tucson.

"I don't like Albuquerque, and I don't like Tucson," he snapped. "Albuquerque has a lot of asphalt lawns." Washington County has a similar climate, but it consumes far more water. In 2015, it used more than 49 million gallons of publicly supplied water per day, or 317 gallons per person per day. By comparison, that same year, Clark County, Nevada, which surrounds Las Vegas, used 204 gallons per person per day, and the counties surrounding Phoenix, Tucson, and Albuquerque used even less: 186, 174, and 129, respectively. Santa Fe County, up the road from Albuquerque, used only 71 gallons per person per day. "Utah has yards and trees and gardens," Noel told me. "Our kids don't want to play on green-painted gravel lawns."

The town fathers agree. Dean Cox is a fifth-generation St. Georgian, a descendant of the town's original Mormon settlers, and serves as a Washington County commissioner. Clad in jeans and a blazer, he recounted the founding of the town, starting with the Paiutes who irrigated crops along the Santa Clara River. When the Latter-day Saints arrived in 1861, directed by Brigham Young to forge a southern outpost of their Kingdom of Zion, they diverted a spring to "green up the grounds of the temple," as Cox put it, and hand-dug canals and reservoirs to allow the settlers to eke out a living. But St. George didn't grow into more than a hot, dusty outpost on a two-lane highway where drivers filled their tanks and radiators for the sweltering haul between Vegas and Salt Lake.

“What I’m trying to impress upon you is that it was small and poor,” Cox said. In 1965, when he was a boy, St. George’s leaders resolved to convince those travelers to spend the night—and some money, Cox recalled. They built the [Dixie Red Hills Golf Course](#), a rug of turf nestled among the bluffs.

“Since then the population of Washington County has more or less doubled every decade,” he said, unable to contain a smile. “That’s what people do, use our ingenuity and innovation to improve our lives.”

It was easy to like Dean Cox and his tale of entrepreneurial grit. He welcomes the new growth. In the past, most local kids were forced to leave St. George—or Dixie, as it’s nicknamed—if they wanted a career. The area became a haven for retirees, the first wave arriving in the 1970s. One big achievement of this early boom, Cox told me, is the expanded new hospital. Instead of a handful of country doctors, they have a first-rate medical center with a roster of specialists. His daughter works there. “She wouldn’t be here—that job wouldn’t be here—” he said, “without the previous water projects.”

Old-timers like Cox say they have no right to shut the door behind them. He believes that the county needs the water for the next generation. “If we don’t have the pipeline, we don’t have the growth, and we can send our kids somewhere else,” he said. “We’ll water grass until the price of water prohibits it—I think the free market, supply and demand, will provide the solution.”

Cox made some good points. I’m that guy who will raise an interminable fuss to the county council if they even suggest paving the road where I park my single-wide. I like southern Utah fine the way it is and hope Moab never reaches the size of St. George, much less Albuquerque. But the reason my wife and I don’t live in Moab anymore is that there aren’t many jobs except in tourism. Even Ed Abbey didn’t stick around, spending his final years on the outskirts of Tucson.

Cox shrugged off growing pains like traffic and not knowing your neighbors. “They said if we ever got to 100,000, it would cut the head off the golden goose and ruin our quality of life,” he said. “But it hasn’t. You either believe that technology will make things better or that we’re doomed. I believe the world is getting to be a better place. And I’d rather import water than export children.”

If importing water saves children, then the man responsible for retaining the most local offspring is Ron Thompson, general manager of the [Washington County Water Conservancy District](#) (hereafter, the District). Another descendant of settlers, Thompson may be the William Mulholland of southern Utah: since he took charge 35 years ago, the population has jumped 600 percent, and the town has two new reservoirs. I met him at District headquarters, a three-story faux-dobe castle perched on a ridge overseeing the dominion below. Thompson is six foot eight, with a shock of disheveled white hair and a toothy grin. In a blazer that didn't match his slacks, and with an orthopedic boot on one foot, he ambled the plush conference room like a buffalo.

Thompson told me that the situation is dire. The county's sole source of water is the fickle Virgin River, a tributary of the Colorado that he predicts, given population-growth estimates, will be depleted in just ten years. "You can't stick your head in the ground and do nothing or you end up like Cape Town," he said, referring to the South African city of four million whose water shortage may cause municipal taps to run dry within a year. "They're looking at a doomsday scenario right now."

Thompson is not worried by the price tag. "Water always pays for itself, every time. But lack of it can destroy economies and societies," he said. Indeed, all the major cities of the Southwest, whether you consider them enlightened centers of culture or object lessons in blight, rely on elaborate waterworks delivering the Colorado River.

"If we don't have an adequate water supply, why are we spending billions for education and highways?" Thompson asked. "We can't have any of that without water."

To understand why St. George wants this water so badly, one must exit the debate of practical policy and enter the realm of centuries-old grievances. Mormons arrived in Utah after years of persecution, seeking not to join the U.S. but to escape it. Even as they've assimilated, many still fear that the forces of federalism will encroach. Instead of laying out more than a billion dollars, I asked Cox, why not let the water flow down to California as it always has?

“How many congressmen does California have?” he asked. “How many does Utah have?” The correct answers are 53 and four, but the questions were rhetorical; he meant that if Utah does not develop its water and multiply its population—and with it, its political clout—Californians will rewrite the law to benefit themselves. This isn’t paranoia. Western water law has long encouraged rights holders to use their share—or lose it.

When the Colorado River was divvied up nearly a century ago, yearly flow was estimated at 17.5 million acre-feet. The river was divided into the Upper Basin and the Lower Basin, with each half getting an annual 7.5 million acre-feet. In the Lower Basin, California got 4.4 million, Arizona 2.8 million, and Nevada a meager 300,000. Upper Basin states each received a percentage of their half, with Colorado getting 51.75 percent, Utah 23, Wyoming 14, and New Mexico 11.25. To further cloud things, Mexico was left out entirely, as were Native American tribes, although both were addressed in later agreements.

The big winner so far has been California. The so-called [Law of the River](#)—the collection of federal guidelines, legal compacts, and court decisions that govern the Colorado—states that in the event of a shortage in the Lower Basin, water will first satisfy California and any federal Native American reservations.

But the natural flow of the Colorado has proved to be smaller than anticipated, closer to 15 million acre-feet. In 2012, in fact, annual flow dipped to 7.5 million acre-feet. Because of the West’s long-running drought, the Bureau of Reclamation announced in May that Lake Mead may drop low enough by 2020 to trigger previously agreed-upon flow reductions to Arizona, Nevada, and Mexico. In the meantime, Upper Basin states—which haven’t built the dams and canals to claim their full share—send their surpluses downstream.

Paul Van Dam is also a fifth-generation Utahn. He descends from George Smith, first cousin of Mormon Church patriarch Joseph Smith and one of the founders of the town. He’s 80 now, retired, and I met him and his partner, Lisa Rutherford, in their comfortable home, 20 minutes northwest of St. George, set beneath a spectacular array of red cliffs.

“I moved down here ten years ago because the air in Salt Lake City was unacceptable,” he told me, tugging at his glasses and rubbing his temples.

Van Dam served as the Salt Lake County district attorney, then was elected state attorney general. While some retirees take up golf or bridge, Van Dam became an activist, joining the board of a local group called [Conserve Southwest Utah](#). A widower, he met another young-at-heart retiree who'd joined the cause, and they've been a couple ever since. They've spent a decade battling the Lake Powell Pipeline. As Van Dam and I reclined on sofas, Rutherford pored over sheaves of documents.

“We fight the fight, but we don't let it get us too upset,” he said with a laugh.

Rutherford disagreed. “Oh, I'm pretty nasty, hon.”

Van Dam and Rutherford dispute Ron Thompson's premise that the county will run out of water. The District has more than 67,000 acre-feet per year for its current population of 160,000; by comparison, Albuquerque serves 677,000 county residents with just 100,000 acre-feet. In other words, if St. George conserved water like Albuquerque, its population could almost triple without depleting its source.

The pair point to a 2013 report by the environmental group [Western Resource Advocates](#), which claims that by transferring agricultural water rights from farms as they're turned into subdivisions, and by reducing current water use by 1 percent per year, the county could grow to half a million people by 2060 without piping in any extra.

They also question whether the Colorado River can even provide the promised water, given population growth and the drought. They and other critics allege that the pipeline is just an excuse for Utah to maximize its allotment. “There's a mentality of, we need to use this water because quote-unquote, It's ours,” says Zachary Frankel, of the nonprofit [Utah Rivers Council](#). “It's not about the need for water. It's about keeping another state from using it. Who's using it? You know, California has used more than its share.” Basically, he says, “It's a water project whose purpose is to build a water project.”

Van Dam and Rutherford also dispute the line that growth makes the city more affordable for future generations. They showed me a report by a panel of university economists forecasting that, if the pipeline is built, it could raise

water rates more than 500 percent. Eventually, Van Dam said, St. George will have to reckon with the fact that it's living beyond its natural means. "They'll keep building until you have more people here than God ever intended," he said. "They are passing the hard decisions they should be making now onto their grandkids."

The two sides do not agree on the basic facts, and Thompson has little patience for naysayers. That report from the economists predicting skyrocketing water rates? "The authors are heavily involved with Utah Rivers, which has a different agenda," he said. (The study's lead author is a pro bono consultant for the group.) The District hired a consulting firm to prepare a rebuttal, which concluded that the pipeline would raise water rates only 68 percent. The economists stood by their findings.

While Thompson was keen to compare St. George to Cape Town, he rejected comparisons to desert cities like Las Vegas and Tucson that made St. George look wasteful. "It's not that simple," he told me. "What do you do with our six million tourists? Tell them they can't have a drink of water? What do you do with the college that has 10,000 students in it? Say they can't drink water?"



St.

George's golf courses (Allan MacBean)

District officials told me again and again that comparisons to other desert cities are misleading, because of factors as far ranging as density, income level, and local soil composition. They pointed out that much of the new construction is drip-irrigated, with native gardens of cactus, mesquite, yucca, and cholla, and that St. George reduced its water use by a quarter in the past decade. But they did not provide figures that refuted the basic premise that greater St. George uses more municipal and domestic water per capita than other Southwest cities. Both Las Vegas, with its 42 million tourists, and Tucson, with its 90,000 college students, still use less per capita than St. George. Tucson receives more rainfall than St. George, with similarly high temperatures, which I took as another reason for drier Utah to kick the bluegrass habit. But Thompson interpreted the data the opposite way: since Tucson has its lawns watered by summer monsoons, it doesn't need to import as much water.

Thompson had another theory. In 2011, he told the *St. George Spectrum and Daily News*, "Tucson is primarily a Latin culture, and we're fundamentally a European-descent culture." I asked him if Latinos use less water.

“You tell me,” he said. “They’re incredibly social people, great people, and they have tremendous family values. The countries I’ve been in where they have that influence, they don’t recreate in the backyard. They recreate in the front street. I can remember walking down Latin American streets, and they’re filled with people till clear after dark, socializing, kids playing ball in the streets, barbecues going on, and people sharing. In the European culture, we tend to be in many ways not as social. We socialize in our homes, in our backyards. There’s fundamental differences—I don’t mean that negative at all. If all your recreation is in the front, you’re not worried about a half-acre of turf or a pool in the backyard. And you probably see some of that in Albuquerque, I suspect.”

The truth might be less exotic. The District provided me with a typical water bill for a single-family household in St. George. For 13,000 gallons they paid \$31. I checked my most recent bill, and for 9,000 gallons I paid \$83. My gallon costs four times as much.

Had some miracle of the free market delivered this bargain? No. The District achieves its rates through a trusty old trick of European descent called socialism. Most water suppliers in the West, including Las Vegas, Albuquerque, Tucson, and Phoenix, do not collect property tax. But the District raises more revenue through taxing property than selling water. So there’s no incentive to choose, say, a xeriscaped concrete courtyard over an above-ground splash pool.

Utah, in fact, ranks second in the nation in per capita water use, behind Nevada. In a 27-page report subtitled “Why do we use so much water, when we live in a desert?” the [Utah Division of Water Resources](#) emitted a collective *duh* when it arrived at this stupefyingly obvious conclusion: “Today, Utah citizens enjoy irrigated green lawns on relatively large lots, primarily because of the large quantities of inexpensive water.”

The deeper I delved into the District’s case, the weaker it looked. In a pamphlet called *Top Ten Reasons Why Utah Needs the LPP*, the District claimed that the water would benefit “primarily the children and grandchildren of current residents.” But only 5 percent of Utahns live in the counties that will draw that water. And the growth is not driven by bunny-like fertility but by migration, much of it from out of state.

Perhaps the pamphlet's most peculiar claim is that the pipeline "provides more water at a lower cost than other alternatives." Thompson told me that reducing water use by 1 percent per year and transferring farm water to towns would cost more than \$1.5 billion—about as much as building the pipeline. Three-fourths of that figure, a cool \$1.1 billion, is the cost of replacing lawns with something else. The district is calculating that homeowners will shell out an average \$10,000 for new professional landscaping. Even if everyone could afford that, it's apples and oranges—a private decision as opposed to a pipeline financed by state taxpayers.

After a few days in Dixie, my head was spinning with circular logic: we must grow grass, therefore we need water, therefore we can grow grass. In what sounded to me like the last gasp of Manifest Destiny, this frugal state may break the bank to grow bluegrass on red rock.

But I assumed that the free market would settle things. If bond investors are willing to risk \$1 billion to water this rock, more power to them. This is how the city of Colorado Springs recently financed its own \$825 million pipeline. If Thompson's math is correct, those investors will earn a fortune on interest; if Van Dam is correct, they'll lose their shirts.

But here's where the story gets strange. No banks or private investors are financing this project. The lender for the Lake Powell Pipeline will be Utah taxpayers.

"The state came down to us in the 1990s and said, Look, you'll never be able to provide the water for the people coming here," Thompson told me. "They asked us to look at a pipeline. That idea did not originate in St. George. It originated in the state capitol."

This explained a lot. The District does not provide convincing arguments to reporters or opponents because it doesn't have to. The decision to build the pipeline had already been made by the Utah legislature, which in 2006 authorized the treasury to lend the District the funds. According to a *Salt Lake City Tribune* story last January, the state has already spent \$33 million just on plans and permits.

As for opposition, Utah is essentially a one-party state. Republicans hold an 86 to 18 supermajority in the legislature. Its four U.S. representatives are Republican. Though Salt Lake City has had a long procession of Democratic mayors, no Democrat has been elected governor since 1980, there hasn't been a Democratic senator since 1970. State leaders have all lined up behind the pipeline. In February 2017, after President Trump ordered approval of Dakota Access and Keystone XL, Utah governor Gary Herbert wrote to the White House requesting that the Lake Powell Pipeline "be determined a 'high priority' infrastructure project, with environmental reviews and approvals expedited." The Utah congressional delegation followed suit with its own letter, urging that the review process be completed by 2018. When Trump approved the decision to [slash Grand Staircase–Escalante National Monument](#), a section of the excised land contained the proposed route of the pipeline.

Still, I knew enough about land and water to surmise that the true beneficiaries of those master-planned exurbs would be the developers. What surprised me was that the unbuilt tracts didn't belong to ranchers and farmers. The largest landowner in St. George is the State of Utah, which has been selling off a tract totaling 68,000 acres—roughly 15 percent of the city—projected to one day house 40,000 people. This includes Desert Color, with its future sunbathers on fake lakes. In all, development of the tract could boost the city's population by 50 percent.

As much as I appreciated a bootstrapping tale of local pluck, or the idea that a golf course launched an entire region, what caused this desert to blossom in the 1970s was the Interstate system—I-15 passes right through St. George—and air-conditioning fueled by cheap electricity, both of which were delivered by massive public projects. Like many Sunbelt cities, this one would barely exist without the faraway reign of tax-and-spenders. And the upcoming boom isn't the result of individuals developing their property, or of citizens exercising their personal freedom by moving here. It's engineered by the State of Utah, irrigating its own desert metropolis. If they build it, people will come.

Who is this oasis for? I drove up the Santa Clara River to the west side of Washington County. The subdivisions advertised themselves with petroglyphic fonts and Kokopellis: Lakota Ridge, Anasazi Hills, Chaco Bench, Kachina

Cliffs. None of the golf-cart pilots I saw appeared to belong to the above-listed peoples.

But then what a shock—at a roundabout on Wapatki Trail, my eye spied an Indian! He clung, 20 feet off the ground, to a slab of sandstone that protruded from the xeriscape. He was nude but for a loincloth, jute sandals, and a feather in his hair. Lashed to his back were three more slabs of sandstone.

Alas, the Indian was a bronze statue, and if he were to summit his crag, he would peer down at pueblo-style mansionettes. But as I reached the westernmost village in the county, a plain metal sign proclaimed: [Shivwits Paiute](#) Indian Reservation. Out here the houses were stucco rectangles—no green grass or, for that matter, exotic cactus, just sagebrush and cheatgrass and tumbleweeds. I stopped at the one place of business, a gas station, to get a Coke. The actual Paiute working the register looked nothing like his ripped bronze ancestor. For starters he wore clothes.

I knocked on the door of the home of Lawrence Snow, the band's land-resource manager. As we stood in his yard, he looked downvalley and said, "The houses are coming closer and closer. It's like Las Vegas. If they all lived up here, I'd feel crowded. Everything they love about the place, you can kiss it goodbye."

Snow didn't think the pipeline would affect the Shivwits band, which negotiated a water settlement with the federal government a few years back. He said that the biggest problems here were the same ones facing many other rural parts of the country—unemployment, poverty, the opioid epidemic. With his finger, he scratched pie charts into the dust on the hood of his minivan. "When there are so few of us, the problems seem bigger."

The Shivwits band is small indeed: just 305 members, of which only about 100 live on the reservation. In 1954, at the urging of Utah senator Arthur Watkins, the U.S. "terminated" the Utah Paiute bands, rescinding their recognition as a tribal nation. It was an attempt to force the Paiute to assimilate and resulted in a spike in disease, malnutrition, and alcoholism. The tribe, which includes five bands, was finally able to reverse the termination in 1980. Its official website puts a fine point on the ordeal: "The Paiute Indian Tribe of Utah is engaged in the long, slow climb back from near destruction by the invasion of European

settlers and Mormon Pioneers. Their numbers, once in the thousands, dwindled to less than 800.”

The history of this continent is one of colonists pushing indigenous people off the land. A decade ago, author Rich Benjamin noticed that, while the country at large is becoming more diverse, small cities in the West are filling mostly with more white people. He concluded that they were fleeing larger cities for what he called Whitopia: towns that were at least 85 percent non-Hispanic white and booming with more new white arrivals. Places like Bend, Oregon; Coeur d’Alene, Idaho; and Fort Collins, Colorado. His prime example was St. George, which in 2006 was 89 percent non-Hispanic white. In the previous six years, it had jumped 40 percent in population; of those new arrivals, 84 percent were white.

“Most whites are not drawn to a place explicitly because it teems with other white people,” he wrote in [*Searching for Whitopia*](#). During three months of research in St. George, Benjamin, who is black, found residents to be exceedingly polite, with strong anti-immigrant views. They look for neighborhoods with “higher property values, friendliness, orderliness, hospitality, cleanliness, safety, and comfort. These seemingly race-neutral qualities are subconsciously inseparable from race and class in many whites’ minds,” he wrote.

The effect is that Whitopia is only getting whiter. This is not an accident of the free market; it’s engineered by public policy. Last century, as whites fled cities for the suburbs, public money flowed into those suburbs for freeways, police departments, and schools. Now, as whites rush to the Intermountain West, public money flows toward projects like the Lake Powell Pipeline that benefit them.

I drove east out of Washington County along the proposed path of the pipeline, dropping down from Utah into the Arizona Strip—the parched land of Paiutes and fundamentalist Mormons cut off from the rest of their state by the Grand Canyon. I stopped at Pipe Springs National Monument, a watering hole that has supported the Kaibab Paiutes for millennia. One could argue that Native

Americans were treated better by Mormons than by other settlers, but in any case the Kaibab band of Paiutes numbered more than 5,000 before contact with Europeans; now the tribe has 335 members.

The [Kaibab Indian Reservation](#) consists of a smattering of homes just a few miles from the springs. As I pattered down a stretch of two-lane blacktop through sagebrush, I came across a parking lot filled with cars. Outside what looked like any blocky municipal office, but turned out to be a basketball gym, a dancer in feather regalia exited a sedan. I skidded to a stop in the gravel and within ten minutes was feasting on fry bread and hamburger stew. The powwow was in honor of veterans, and I met a Marine who served in the corps for 20 years, from Vietnam to Iraq. As the dance began, he carried the medicine staff while his brothers hoisted the Paiute tribal flag and the Stars and Stripes. A circle of men beat a drum and wailed a victory song while a half-dozen vets, most in gray braids and black leather vests, pounded their feet in place. The eldest danced with a cane.

Because of drought and new wells, the flow at Pipe Springs has dwindled from 50 gallons per minute to five. One proposed path of the Lake Powell Pipeline crosses the reservation, but since the pipeline is exclusively for Utah counties, the Paiutes won't get any of its water.

Another hundred miles up the Colorado River canyon, where the pipeline would dip into Lake Powell, sits the Navajo Nation, home of the country's second-largest tribe (after the Cherokee), with more than 300,000 enrolled members. About half of them live on the reservation, which spans parts of New Mexico, Arizona, and Utah.

I talked to Mark Maryboy, a former commissioner in San Juan County, located in the southeastern corner of Utah, and the first Native American elected to office in the state. "I always felt like it was just a joke," he said of the pipeline. "It's very expensive. But Utah is a Republican state. They're in control. And they get to do whatever they want."

The Navajo Nation has water rights to the Colorado that it has not developed, but of the 8,000 or so Navajo living in the Utah portion of the Nation, more than

3,000 do not have running water. Let me say that again: in the year 2018, American citizens do not have water to drink in their homes.

“Hauling water is a way of life on the Navajo reservation and has enormous economic and social costs,” Navajo Nation president Russell Begaye testified before Congress last December. “The only way to improve this situation is through water infrastructure.”

Begaye was speaking in support of a bill introduced by Utah senator Orrin Hatch that would authorize the Navajo Nation to develop about the same amount of Colorado River water as the Lake Powell Pipeline would carry. The U.S. government would pay \$200 million for the project, and Utah would pitch in \$8 million.

When compared with the Lake Powell Pipeline, the Navajo settlement loses some of its luster. First off, it must be approved by Congress, which could take years or might simply never happen. And for roughly the same amount of water, the Lake Powell Pipeline will cost nine times more. Either the Navajo project has been shortchanged, or the LPP is an extravagant boondoggle.

“Western water pork barrel has always focused on diverting water away from reservations, not to them,” said Dan McCool, a professor emeritus of political science at the University of Utah, who has written two books on Indian water rights.

Says Melanie Yazzie, a professor at the University of California at Riverside, who studies Navajo water rights, “Whether or not they want to be hauling water, Navajo people have a prior right to the water. This is another case of colonial dispossession and the exploitation and extraction of our resources.”

What’s happening in St. George may be the result of state water priorities, or it may be part of the great morass of federal policy that has forever bogged down Indian affairs. Either way, the optics of white people frolicking on water slides while Natives haul drinking water in pickups looks to some a lot like apartheid.

I kept driving east along the pipeline’s future route to find Mike Noel, the Utah state legislator I’d spoken with from my hotel hot tub. Noel is one of the

pipeline's loudest proponents and the archnemesis of public-land advocates. He has said that the U.S. Forest Service has been taken over by "the bunny lovers and the tree huggers and the rock lickers." Representing the counties that contain Grand Staircase and Bears Ears, he helped persuade the president to slash them, then tried to rename the road through Zion the Donald J. Trump National Park Highway.

I drove to his ranch outside Kanab, a town of 4,700 on the Arizona state line. With a smattering of hotels and bungalows ringed by red cliffs, Kanab reminded me of the Moab I moved to 25 years ago and is perhaps what St. George would look like without the interstate. I left the pavement, crossed a dry wash and an alfalfa field, then wound up a dirt lane to a handsome home overlooking the canyon. Noel met me at the door in jeans, running shoes, and a black sweatshirt.

He plopped down on the couch and yawned. Fifth-generation, pioneers, etc. His wife brought glasses of ice water. If I expected a fist-pounding ogre, I found instead a kindly grandfather with deeply held beliefs. Noel lit up when I mentioned that my wife and I had a baby on the way. "That's what life is all about," he said. "It's a wonderful thing, a spirit coming down from heaven." Noel is a recent widower, and he and his new wife have 48 grandchildren between them.

"It's part of our heritage as a state," he said of the pipeline. "We're not giving up that water. It goes back to the way Utah was founded. Brigham Young left Nauvoo, Illinois, in the greatest single migration in the history of the continent. He came to a place, it had open land, it had room to grow, it had freedom from oppression because it was outside the United States, and it had water. For us to give up water would be like giving up our firstborn.

"I want there to be farmers," he told me. "I produce 100,000 pounds of beef every year. I don't give it any growth hormones. I grow hay and sell it to the dairy farmers, for milk for children. I feel I'm doing what God wants me to do. He wants me to be a good steward of the land. He wants me to produce food and fiber for people."

Noel conceded that the pipeline will not help farmers. "That water's too expensive for agriculture," he said. I suggested that the second-home resort

growth in St. George was actually destroying his pastoral way of life. “It is,” he agreed. Nonetheless, he supported the right to build lakes and lakefront condos. “We shouldn’t use water as a zoning mechanism,” he said.

When I suggested that the Colorado River might not have enough water for the pipeline, he scoffed. “If it went down by 80 percent, our water will still be sitting there.” I brought up California and the other states downstream.

“The people in California, at least they have an ocean,” he said. “They have lawns. Should people in Utah not even be allowed to drink?”

I took a sip of ice water.

“You know more about this than I probably do,” he said.

I set the glass down.

“If we could sit and reason together, I think we’d be better off,” he said. “I’m pretty bombastic in the things I say, maybe less so since my wife died. But it’s very annoying, this whole harangue: no growth, no growth, no growth. They would say to you: There’s too many people on the planet, Mark, you should have chosen to have a dog, not a child. It’s an amazing thing—that’s what people get married for, but for these guys it’s like doomsday.”

The next week, the Utah Rivers Council would file a complaint against Noel, accusing him of conflicts of interest over the pipeline. Noel denied all wrongdoing and announced that he’d been planning to retire from the legislature anyway.

“What do you say to the critics,” I asked him at his house. “The people who wonder if we’re spending a billion dollars so people in St. George can water their lawns?”

He let out a sigh, the kind an adult gives a child who insists Santa Claus isn’t real.

“Don’t they like lawns?” he said, grinning, sinking deeper into the cushions. “I like lawns.”

Contributing Editor Mark Sundeen (@sundeenmark) is the author of [The Unsettlers: In Search of the Good Life in Today's America](#).

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IT’S HARD TO FILL A BATHTUB WHEN THE DRAIN IS WIDE OPEN: THE CASE OF LAKE POWELL

(August, 2018)

Across the Colorado River Basin, the elevation of Lake Mead is a common point of discussion and concern. Even casual observers have come to recognize 1075’—roughly 4 feet below current (late August 2018) levels—as the elevation at which curtailments begin, and for many, the point at which the Colorado River crisis becomes real. As of today, it is highly unlikely that this threshold will be reached on January 1st of 2019, and Lower Basin curtailments will be narrowly avoided for the fourth straight year. But this is not all good news, and is not evidence of successful crisis management. The reality of the situation is that the dominos have already begun to tumble, and the proof lies upstream in Lake Powell.

From 2000 through the end of 2018 (projected), Lake Powell’s elevation will have dropped approximately 94 feet despite Upper Basin consumption only averaging about 4.5 million acre-feet (maf)/year. Several particularly dry years—including 2018—in a process of continuing aridification contributed to the drop, but ultimately it is the operational rules that are slowly but surely draining Lake Powell. Through 2018, cumulative releases since 2000 from the reservoir will be approximately 11 maf higher than the 8.23 maf/year baseline traditionally utilized by Reclamation (see figure on page 3). Had those excess releases remained in Lake Powell, the lake level would not have declined. However, those extra releases—now governed by the 2007 Interim Guidelines—are the only thing that has kept Lake Mead from dropping into shortage conditions. Current storage in Lake Mead is approximately 10 maf.

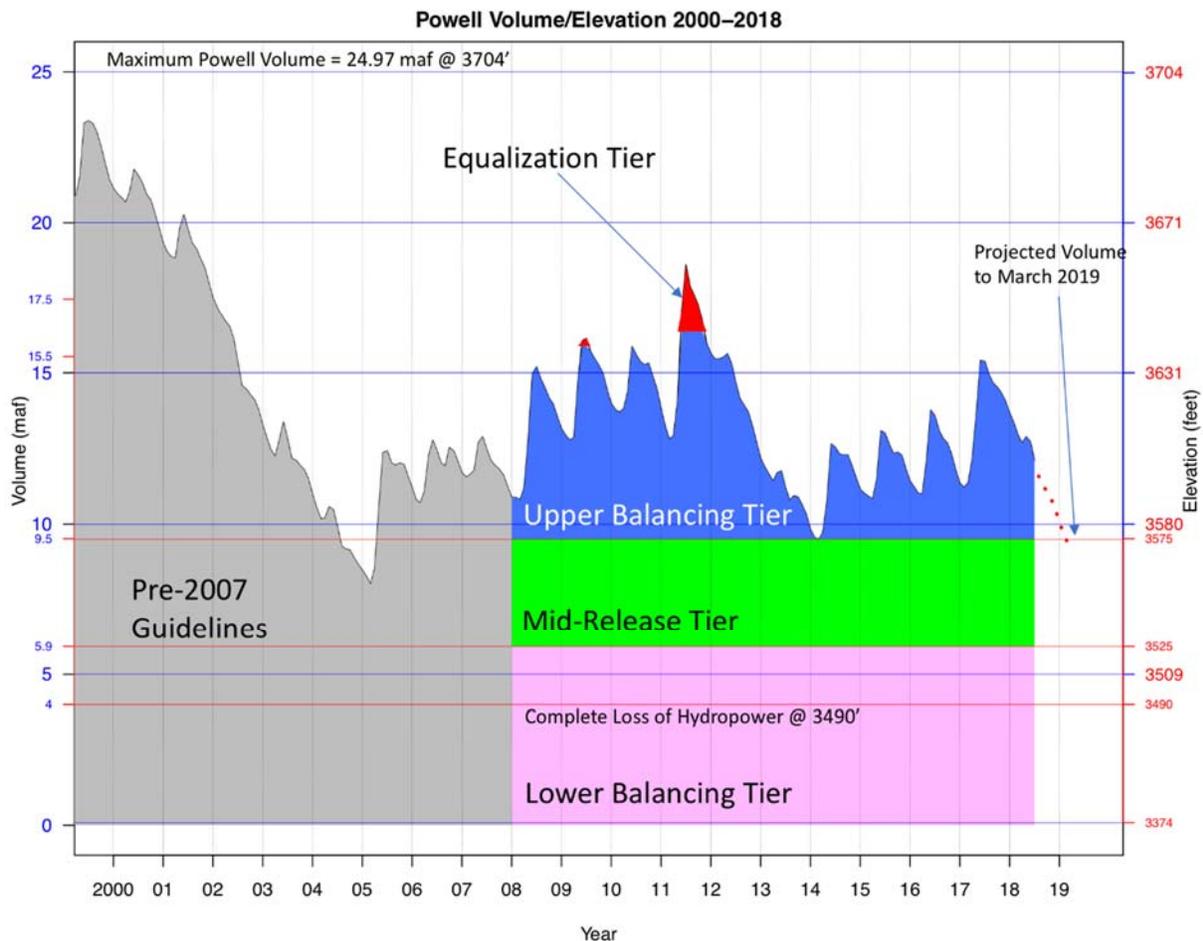
Continuing this operational pattern will further drain Lake Powell and erode the benefits associated with its water storage, including Lower Basin water deliveries, Glen Canyon hydropower generation, and perhaps most importantly, the delicate interbasin truce brokered by the Law of the River and made operational by the two massive reservoirs. The structural deficit is the true villain in this story, mixing with the operational rules to drain Lake Powell.¹ The process is already well underway. If storage in Lake Powell cannot rebound in an era where the Upper Basin consumes less than two-thirds of its legal apportionment, then the crisis is already real.



¹ The term “structural deficit” refers to the ongoing consumption of more water from the Colorado River in the Lower Basin than reliable inflows (minus evaporation) to Lake Mead. The CRRG has discussed this in: *A Look at the Interim Guidelines at Their Mid-Point: How Are We Doing?* (December, 2015), at <https://www.coloradoriverresearchgroup.org/publications.html>.

Deciphering the Story of Lake Powell Elevations

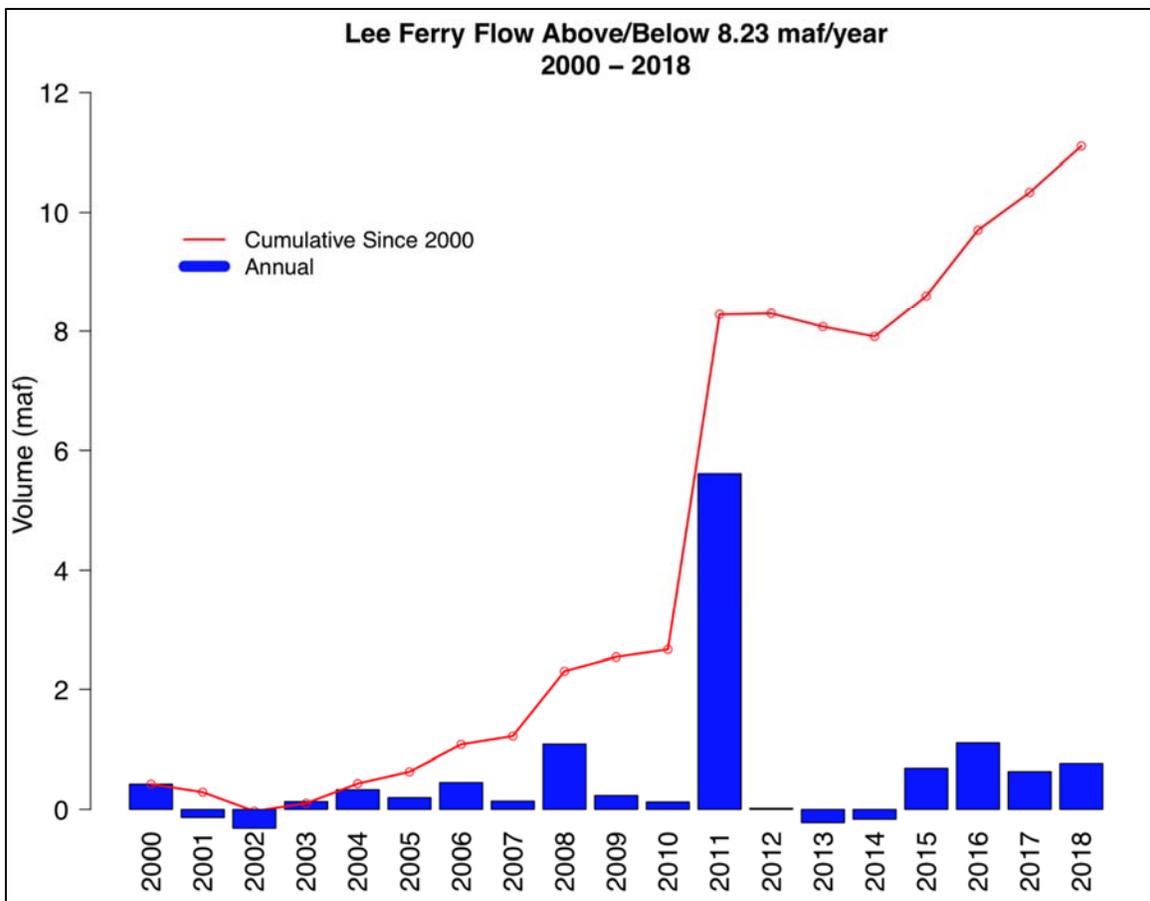
Lake Powell entered the 21st century nearly full at 3681' (21.4 maf), then declined rapidly before stabilizing at an uncomfortably low level (as shown below). Although Lake Powell does not have shortage triggering elevations as does Lake Mead, further elevation declines at Lake Powell prompt a variety of operational issues at Glen Canyon Dam's hydropower facilities (via vortex and cavitation problems). This likely begins around 3525' (approximately 5.9 maf); the official minimum power pool occurs at 3490' (roughly 4.0 maf of live storage). This is significant for more than just hydropower users, as many key environmental and salinity control programs are funded from these hydropower revenues.² Should the reservoir decline further, Lake Powell would move through the upper, mid and lower operational tiers that dictate the release volumes downstream to restore Lake Mead storage. At 3370', Powell is at dead pool, and releases of any kind are impossible. To put these numbers in context, Powell is expected to end 2018 around 3587' (approximately 10.5 maf, or half the 2000 value), while Lake Mead will hover around 1080' (roughly 10 maf).



² Among other things, Glen Canyon hydropower revenues support the Glen Canyon Dam Adaptive Management Program, the Upper Colorado River Endangered Fish Recovery Program, the San Juan Recovery Program, and the Colorado River Basin Salinity Control Program.

In the Lower Basin, the reasons behind Lake Mead declines, and the solution to those declines, is now widely understood: it is all about the structural deficit—i.e., the practice of consuming more water each year (including system losses) than enters the reservoir. Those simple inflow/outflow mathematics also apply to Lake Powell, but Powell ultimately tells a more complex story. For starters, storage in Lake Powell responds to the whims of nature with sudden, dramatic movements. Dry periods, such as 2002-2005 and 2012-2013, have an immediate impact (as shown above). We will see more of these dry periods, which become especially problematic when the reservoir is already low.³ In fact, 4 of the 10 lowest runoff years in record (going back to 1906 and using estimated values for 2018) have occurred since the turn of this century. Our hydrology is changing; so must our water use practices.

The story told by the wet years, however, is perhaps more illuminating. In reservoirs designed to provide multi-year carryover storage, declines are expected in dry years, and recovery is expected in wet years. In the case of the Colorado, wet years occurred about 50% of the time in the 20th century, but since 2000 have occurred only 25% of the time. When large inflows do occur, current operational rules immediately trigger large releases. The experience in 2011 is illustrative: inflow was more than 5 maf higher than usual, but so was the subsequent release (as shown below). The inability of Lake Powell to achieve a lasting recovery in the wet years is another causality of how the Lower Basin structural deficit works its way through the operational rules. To view the structural deficit as a Lower Basin and/or a Lake Mead problem is thus much too simplistic; it is central to all the basin's water supply woes.



³ For more info, see: *When is Drought Not a Drought?: Drought, Aridification, and the "New Normal"* (March, 2018), at <https://www.coloradoriverresearchgroup.org/publications.html>.

Addressing the Lake Powell Problem

The ability of Lake Powell storage to recover in wet years could be enhanced by new operational rules, perhaps including changes to the location of the “balancing tiers” and/or the equalization threshold, the establishment of Upper Basin ICS (Intentionally Created Surplus) programs, and a wide range of other possibilities that reduce water consumption. These items will undoubtedly be discussed further in coming years. Better options might be found by thinking outside of this familiar framework. Lakes Mead and Powell, after all, are essentially one giant reservoir (bisected by a glorious ditch) if not for the Lee Ferry accounting station and the administrative delineation of Upper and Lower Basins. Managing—and thinking—of these facilities as two distinct reservoirs, one for the benefit of the Upper Basin and one for the Lower, now seems outdated. Even tinkering with these familiar elements of basin administration and the Law of the River are categorically off-the-table for many interests, but it might be worthwhile to think about what could be achieved in terms of water security, Grand Canyon (and perhaps Glen Canyon) restoration, and other objectives if we allowed ourselves more flexibility in managing (and perhaps modifying) the massive infrastructure investments already in place. Long-term, we may have no choice to consider reform on this scale.

Currently, the future of Lake Powell—and for that matter, Lake Mead—is largely tied to the drought contingency plan (DCP) negotiations underway in both basins. The primary focus in the Lower Basin continues to be on avoiding deep curtailments, while the Upper Basin is increasingly coming to terms with potentially needing to manage a compact call or, at least, a loss of hydropower generation in Lake Powell. Already, these negotiations are pressing up against the deadline for starting negotiations on version 2 of the Interim Guidelines. For many in the basin, the next generation of Guidelines are the place to adopt a comprehensive solution—a sustainable water budget. This is something the current rules do not provide, even though they have extended the window of time for doing so. The new framework can potentially take many forms, but at a minimum, will need to recognize the linked future of the two basins, and the political necessity of addressing equity concerns among users, sectors, and regions. Admittedly, this is a tall order on a tight deadline, but the recent history of Lake Powell shows us that the status quo is untenable. In different ways, both reservoirs illustrate the same lesson: it is impossible to keep a bathtub full while the drain is left open.

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