

GRAMA Notice of Appeal to State Records Committee

Requester's information

REC'D MAY 09 2019

Andrew Gulliford, Ph.D.
[REDACTED]

May 7, 2019

Daytime phone [REDACTED]

Email [REDACTED]

Explanation of Relief Sought

NOTE: I am scheduled for a mediation meeting with Ms. Rosemary Cundiff and San Juan County Attorney Kendall Laws on May 30, 2019. The 30 days after I heard from former San Juan County Administrator Kelly Pehrson denying my appeal expires May 19th. Therefore, with this application to the State Records Committee I am preserving my right of appeal.

According to the *San Juan Record* in their January 2, 2019 edition, San Juan County, the poorest county in the state, spent \$551,165.00 "to fight the designation of Bears Ears National Monument" by hiring the Davillier Law Group from New Orleans, Louisiana. As a newspaper writer, historian, and San Juan County taxpayer, I filed a GRAMA request on January 6, 2019 to receive "documents, opinions, letters and contracts" that the county paid for. I enumerated in my written letter that I sought:

1. All work products, opinions and documents sent to the county by the Davillier Law Group
2. Billing and hourly rates of the attorneys not on the county payroll
3. Copies of all written correspondence including emails between the Davillier Group and San Juan County
4. Copies of contracts with the attorneys involved

In an email from the county clerk and auditor I received #2 and #4. I reviewed #2 which includes Davillier Law Group invoices to San Juan County. I found specific emails, memos, reports, and drafts of reports with the dates for which San Juan County had been billed. I then requested those documents in a line by line statement which identified the dates when the work was produced and the type of work product.

In a letter dated April 19, 2019, Mr. Kelly Pehrson, the former San Juan County Administrator, refused my request. He stated that I had received #2 and #4 of my request and then he added: "My findings:

- 1) Under State Code 63-G-2-305(17) (18) (23)—these records are “protected” due to attorney client privilege
- 3) Under State Code 63-G-2-305(17) (18) (23)—these records are “protected” due to attorney client privilege”

With this document I am appealing Mr. Pehrson’s decision. These records have deep public interest and are at the essence of the Utah Open Records Act. The controversy over Bears Ears has become a local, state, national and even international issue.

San Juan County sought to block or overturn President Barack Obama’s December 26, 2016, 1.35 million acre Bears Ears National Monument. The county paid \$550,000 to a New Orleans law firm to have that decision reviewed and if possible overturned. On December 4, 2017 President Donald Trump did just that.

This is an important case to appear before the State Records Committee. With extensive newspaper coverage on Bears Ears in the *San Juan Record*, the *Salt Lake Tribune*, the *New York Times*, the *Washington Post*, the *Denver Post*, *Time Magazine*, and *National Geographic*, and with a full length documentary by Utah Public Television titled “The Battle Over Bears Ears,” this is clearly an issue in “the public interest.”

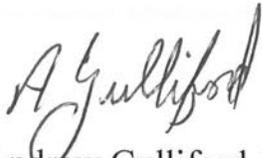
Because of President Donald Trump’s shrinking of Bears Ears by 85%, there are four federal lawsuits going forward. Between lawsuits and pending legislation, what happens with Bears Ears National Monument may help define the future of federal public lands in the 21st century west. Proposed legislation may die in committee or have a legislative life. Utah politicians seek to weaken the Antiquities Act; other congressmen and senators plan to strengthen it. Pending legislation includes:

- H.R. 3990 (Representative Rob Bishop) “National Monument Creation and Protection Act”
- H.R. 4532 (Representative John Curtis) “To create the first Tribally managed national monument and for other purposes. ‘Shash Jaa National Monument and Indian Creek National Monument Act, January 30, 2018.
- H.R. 871 (Representative Ruben Gallegos) “Bears Ears Expansion and Respect for Sovereignty (BEARS) Act, February 2019.
- S.2354 (Senator Tom Udall) “America’s Natural Treasures of Immeasurable Quality Unite, Inspire, and Together Improve the Economies of States Act (ANTIQUITIES) Act—The Antiquities Act of 2019,” February 2019.
- S.3193 (Senator Mike Lee) Protecting Utah’s Rural Economy (PURE) Act, July 11, 2018.

Never before have five Native American tribes sought to use the Antiquities Act to protect their traditional cultural sites. How San Juan County spent its funds to intervene in a presidential proclamation is important for contemporary

journalism and for state and national history. What the Davillier Group produced in emails, letters, drafts, and memos must be made available to the public.

I have entered the mediation process with Ms. Rosemary Cundiff and San Juan County Attorney Kendall Laws. Because of my need to respond in writing to the State Records Committee within 30 days of April 19th, I am submitting this notice of appeal with copies of all previous documents and requests.



Andrew Gulliford, Ph.D.
Historian

May 7, 2019

Inclusions for notice of appeal

- Statement of facts, reasons, and legal authority in support of this appeal
- Original GRAMA request
- Notice of denial from the governmental agency's record officer
- Notice of appeal to the governmental entity's chief administrative Officer
- Notice of decision from the governmental entity's chief administrative Officer

This notice of appeal must, **on the same day**, also be forwarded to the governmental entity to which the records request was made.

- Notice of appeal sent to agency