

# LABYRINTH CANYON

## A Case Study in State and Federal Cooperation for Administration and Management of Recreation on a Navigable River

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*There is an exquisite charm in our ride down this beautiful canyon. We are all in fine spirits. We whistle or shout or discharge a pistol to listen to the reverberations among the cliffs. We name this Labyrinth Canyon.* John Wesley Powell, 1869

### Introduction

The allure of this beautiful canyon, noted by John Wesley Powell in his diary entry of July 15, 1869, has, in the last decade, begun attracting fairly heavy recreational use. Along with the increased visitation have come increases in the usual impacts—popular campsites have seen a proliferation of fire rings, vegetation stripped for firewood, toilet paper flowers sprouting from behind any vestige of concealment and many sites taking on the pungent aroma of a frat house backyard the morning after a kegger. To say the least the allure has become slightly tarnished.

Labyrinth Canyon is a sixty-four mile long segment of the Green River in southeastern Utah (fig 1.) Powell named it for its many intricate twists and turns. It may just as well have been named for the maze of conflicting Federal and State jurisdictions that have since been overlaid on this canyon. The river has been adjudicated by the Federal

Courts as navigable and thus managed by the State of Utah to serve the public trust. Two BLM field offices manage public lands above the high water mark. Recreation use on the river had been relatively unregulated. Both the State and Federal agencies had adopted special rules for the area. However, rules from the two sovereigns were not consistent and neither agency did enforcement due to concerns over jurisdiction. While the jurisdiction issues were being debated by the agencies, visitor use, impacts and incidents of noncompliance were increasing. Natural and cultural resources were being damaged or placed at risk. Visitor impact and conflicts reached such a level, the commercial guiding community demanded effective action be taken. The agencies have embarked on a cooperative effort to create a seamless permit system, adopt one set of regulations for the area and to improve enforcement efforts.

### Jurisdictional Issues

Under the Equal Footing Doctrine submerged lands beneath navigable bodies of water belong to the state in which they are located unless the federal government explicitly reserved those submerged lands for some other purpose prior to statehood. Originally these lands were set aside to ensure unimpeded use of the river for transportation of commerce, much like modern-day highway easements. To date in Utah, only those river sections that could be used or were used for this original intent were adjudicated as navigable. The stretch of the Green River from the end of Swasey's rapid, just upstream of the town of Green River, to the confluence with the Colorado River through Labyrinth and Stillwater Canyons has been determined to be navigable (United States v. Utah, Civil No. C-201-62, Utah District Court, Central Division, January 9, 1965). Utah Division of Forestry, Fire and State Lands (FF&SL) is the managing agency for these lands.

In 1964 Congress created Canyonlands National Park of federal lands previously managed by BLM and in 1976 acquired all State lands within the Park boundaries including the riverbeds of both the Green and Colorado Rivers (State Exchange 96, filed Feb.24, 1972. Completed April 29, 1976). The northern Park boundary is roughly three miles downstream of Mineral Bottom on the Green River.

Lands upstream of the Park boundary and above the mean high water mark, with the exception of a handful of private inholdings, are federal lands managed by the Bureau of Land Management. The Green is also the boundary between two BLM office areas—lands to the East of the river are managed out of the Moab Field Office and lands to the West of the river are managed out of the Price Field Office.

The exact boundary between sovereign State and Federal lands is defined as the "ordinary high water mark" at the time of statehood, July 4, 1896. This is a difficult line to define. Since statehood, there have been numerous upstream dams and diversions and the invasion of tamarisk have caused narrowing of the channel. The river is also very active and carries a high sediment load. The channel moves about, cutting, depositing and generally rearrang-

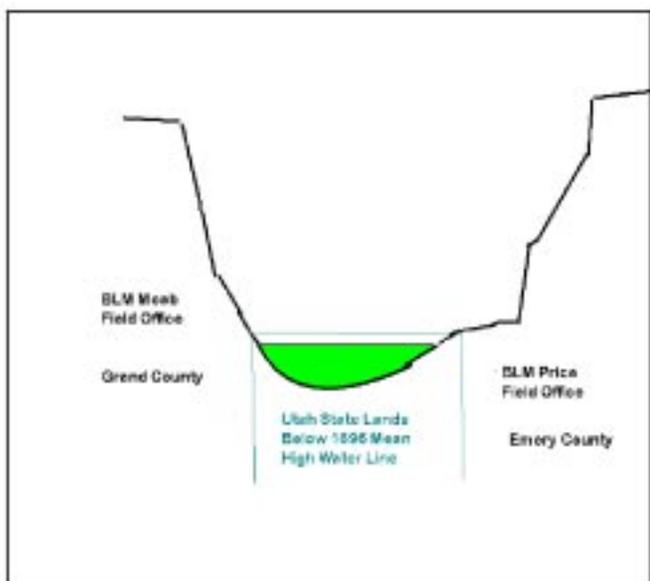


Figure 1. Labyrinth Canyon on the Green River

ing the bottomland. Thus FF&SL and BLM have described this line with a very broad brush.

BLM's authority to regulate recreational and commercial use of the Green River is rooted in the 1976 Federal Lands Policy and Management Act (FLPMA). The statute requires the Secretary Of The Interior to "manage the public lands under principles of multiple use and sustained yield" 43 U.S.C. § 1732 (a). Managing public lands for multiple use is defined to "meet the present and future needs of the American people," and must avoid "permanent impairment of the productivity of the land and the quality of the environment" 43 U.S.C. § 1702 (c). Further, the Secretary is given the power, to "regulate through...permits...the use, occupancy, and development of the public lands" 43 U.S.C. § 1732 (b). Because the typical river trip length involves several nights camping, and extended off river hikes, there are impacts on BLM lands associated with river running, especially during annual spring high water flows when camping on sand bars is not possible. Additionally there is the Horseshoe Canyon North WSA (Wilderness Study Area) extending 22 miles down the west bank of the river from river mile 81 to mile 59 (mileage is measured upstream from the confluence of the Green and Colorado Rivers, with the confluence being mile 0).

In 1993, BLM adopted rules for Labyrinth consistent with rules developed for river recreation in the rest of Utah's BLM managed river corridors. Group size is limited to 25 persons, use of fire pans and portable toilets is required, only driftwood may be collected for firewood.

FF&SL however had no special rules related to river recreation. Prior to 1994 the Division managed all State lands including State Institutional Trust Lands which are those sections set aside at statehood (in Utah typically four sections per township) to help fund public education through the lease or sale of said lands. Most State recreation/resource protection ruling were developed for these lands and pertained primarily to OHV recreation. River recreation and impacts to the sovereign lands in Labyrinth were simply not on the Division's radar screen.

The BLM and the Division of Forestry Fire and State Lands have acknowledged each other's sovereignty since the navigability adjudication of 1965. However with no parity in rules for the Labyrinth corridor and in the absence of clear delineation of State and Federal lands, enforcement of BLM's rules would risk a jurisdictional battle.

What seems to have resulted from defining the sovereignty of the two agencies was a Mexican standoff. BLM while enacting rules did little to enforce them and FF&SL seemed unaware that impacts to sovereign land were mounting. Thus the requirements of fire-pans and removal of fire ash and the use of portable toilets and limits to group size found on most other Western rivers seemed overlooked in the dual-agency management of Labyrinth. To add to the complications, there are three commonly used launch points for entering Labyrinth Canyon. Green River State Park, is located in Green River and administered by State Parks and Recreation, a sister agency of FF&SL under the Department of Natural Resources. Ruby Ranch is privately owned with the landowner making contact with boaters and charging a fee for the launch. Crystal Geyser

is owned by the City of Green River and is not staffed or supervised.

## Management Challenges

During the 1992 season the Price BLM Field Office placed volunteer, Alan Jackson, at the Mineral Bottom ramp to monitor use. Mineral Bottom is an hour and a half from the nearest town of Moab. The ramp lies at the bottom of a remarkable set of switchbacks that descend roughly eight hundred feet through a natural break in the otherwise vertical Wingate sandstone. Jackson set up residence in a camp trailer at the remote ramp and kept tabs on folks launching from and taking out at the ramp. He also began to discreetly note the number of trips that were not using portable toilets. The Price office initiated a voluntary river trip registration. The registration included BLM regulations and general information and requested contact information for the group conducting the river trip. If a group failed to carry a portable toilet or fire pan a letter would be sent from the Price BLM office informing the people of the requirements. Alan has returned every season since and an interesting user profile of the typical Labyrinth trip has emerged.

Each year, 6,000 to 8,000 people float the river through Labyrinth Canyon. About 15% of the use is associated with commercially outfitted trips. Eighty-five percent of all users are on self-outfitted trips. Canoes are the vessel of choice for 65% of the visitors. The average trip length is 4.7 days. Slightly over one third of the trips do not comply with the human waste carry out requirements. Nearly all of the trips running without toilets launched from Green River State Park. Use seems to correlate with flows, high water years yield more river trips and more mosquitoes. High water campsites are limited in number and generally do not see flushing flows. The result is that in high water years, more people are concentrating on the limited number of camps, concentrating use on sites that are not very resistant to disturbance.

In 1999, Utah State University conducted a user survey on nine river segments managed by the BLM (Reiter and Blahna, 2001). This study shed further light on the management challenges and specifically the difficulty of communicating with users. Seventy-five percent of visitors reside outside of the State of Utah. This indicates our practice of issuing news releases though statewide outlets is not very effective. Eighty-four percent are on their first Labyrinth trip and 60% are on their first Utah river trip. Over a third rated their skill level as, "beginner." This lack of experience with the river segment and river running in general was more evident in Labyrinth than on any of the other study segments. When asked where they obtained their information about the river, 44% got it from friends as compared with 2% who obtained information from a government agency.

Against this backdrop of remarkable natural resources and serious management problems, the two sovereigns were engaged in a dispute over jurisdiction. The dispute resulted in both agencies abdicating their responsibilities to take care of the public trust. It took realization that re-

ardless of where the boundary line was drawn, both agencies had similar management responsibilities.

## Resolution of the Problem

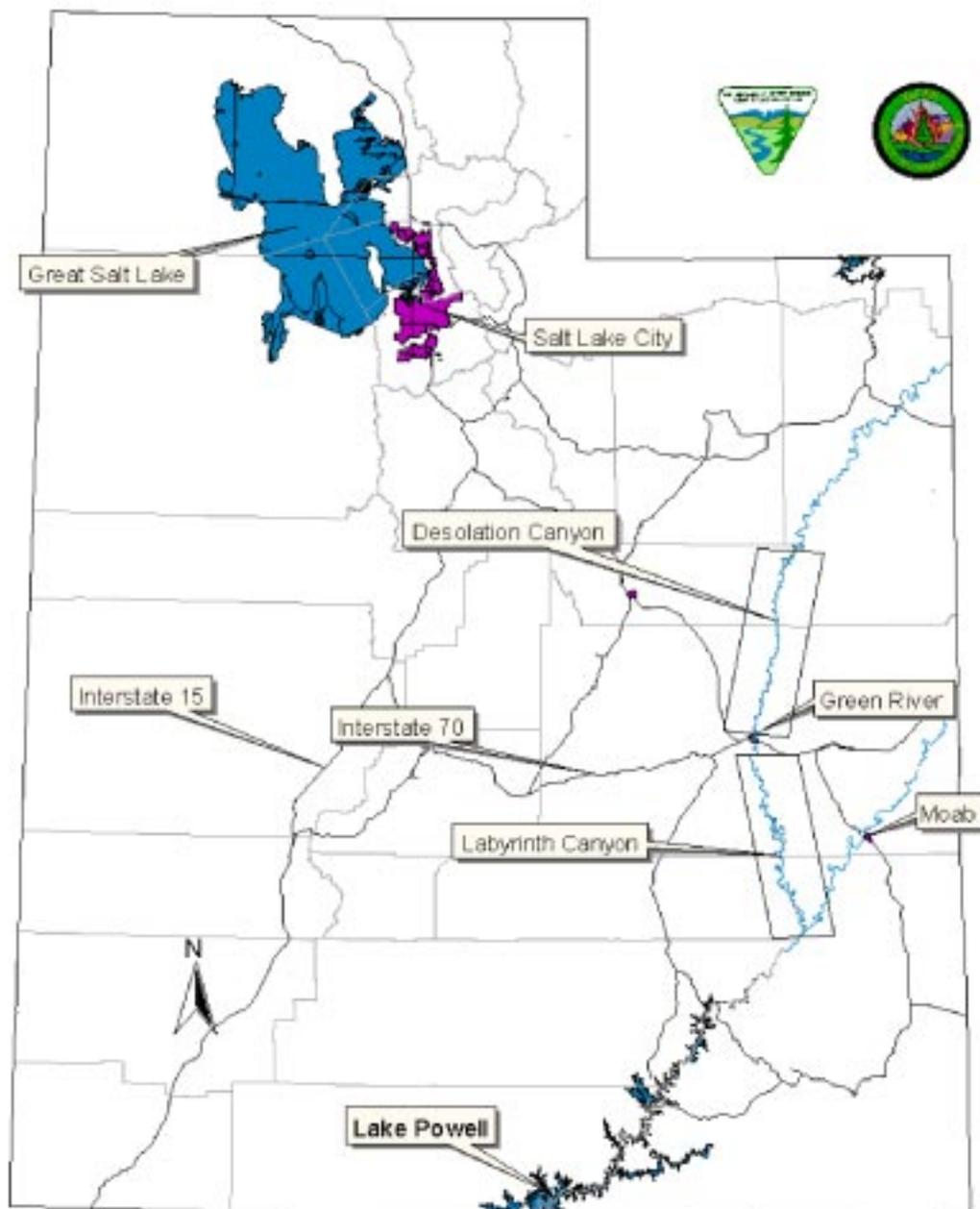
The impacts of the 1998 river season (a high-water year) were very observable and comment from both outfitters and private boaters finally reached the FF&SL folks. In response FF&SL erected signs at the Green River State Park put-in suggesting the use of portable toilets and fire pans. Rule making, requiring fire pans and human waste carry out was not pursued until the Spring of 2000 and it was not until the annual Agency/Outfitter meeting in the Fall of 2000 that FF&SL let it be known they had adopted rules on river recreation in parity with existing BLM regulations, i.e. carriage of fire pans and portable toilets is required. This unfortunately came to light in response to the outfitters' behest that some management action be taken to address the deterioration of the Labyrinth resource.

One of the major concerns was a series of fires caused by river runners allowing their campfires to escape. A fire at mouth of Horseshoe Canyon erupted under high winds from a boaters' camp and spread across the large bottom consuming mature cottonwoods, hackberry, and of course dense stands of tamarisk. Access to the common archeology stop at this bottom is now through the charred landscape. Fortunately the archeological site itself was unaffected. In another tragic case, 80 acres of river bottom were burned and the man responsible and his young daughter suffered serious burns. Since both sovereigns have a fire suppression mission, the fires were a good wake up call.

After the Fall Outfitter's meeting and the discovery that FF&SL had run resource protection rules through their rule making process, the dilemma became how to disseminate the new laws to the boating public.

On 12/14/2000 a facilitated meeting of outfitters and agency folks was held at the John Wesley Powell Museum in Green River, Utah. Sixteen folks participated, half agency people representing BLM, FF&SL, and State Parks and half outfitters. Rosann Fillmore, Director of Emery County Economic Development, facilitated the meeting. Problems with user's treatment of the resource were thrown out then solutions were proposed, the upshot being a permit sys-

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tem was decided to be the most effective way of getting information directly into the hands of people using the resource.

In order for FF&SL to enter into a permit system, a rule making process was undertaken which required passage by their board of directors then a sixty-day public comment period. Essentially the new rule makes mandatory under state law that any private party launching a multi-day Labyrinth Canyon trip must have in their possession a permit for that trip. This is the first time FF&SL has required a use permit on not-for-profit, public use/access to State sovereign lands. FF&SL determined that the permit must be free, for to charge a permitting fee would be a violation of their edict to hold the land in trust for the people of Utah.

Following the rule making process, a cooperative management agreement was drafted, reviewed by legal council, and adopted. The agreement defined the geographic boundaries of the cooperative river management area (CRMA) as the section of river from Green River State Park to the Mineral Bottom take-out. The agreement also acknowledged the legal authorities of the partners as pertaining to their roles in the management of the CRMA. Responsibilities of the partner agencies and the roles of each office involved are laid out. The BLM Price field office was designated the home office and repository for permits, a natural as commercial permits for Labyrinth are handled through this office. There is also a Labyrinth Canyon information web site and the Price office is the administrator with links from the other agencies. The BLM Moab Field Office has produced permitting information for the river user bulletin boards at Green River S.P., Crystal Geyser and Ruby Ranch put-ins and the Mineral bottom take-out, and is a permitting outlet. State Parks committed to increased presence on the Green River S.P. boat ramp and additional boating patrols and the park is also an outlet for permits. FF&SL committed to helping fund a three-month seasonal position contacting groups at the put-ins and their Moab office is also an outlet for the permit.

One of the beauties of a non-fee permit system is the lack of accounting concerns allows creative distribution. We have attempted to make the permit eminently available by having every point that a river trip might come into contact with in their planning or shuttle phase up to the point that they actually launch, be a permitting outlet. Thus permits are also available at the Moab Information Center (open 7 days a week 8:00 am – 10:00 pm, downtown Moab), Canyonlands National Park permitting office( permits trips entering the park, Moab), John Wesley Powell Museum (open 8:00 am – 6:00 pm 7 days a week, Green River), and Ruby Ranch (private ranch on the Green river and common launch site, 23 miles downstream of Green River S.P.). Permits are also available from canoe and raft livery services located in Moab and Green River

A press release regarding the new permit was issued late in February and between the two BLM offices, the FF&SL Moab office, and Green River State Park, a number of related calls have been fielded and roughly 30 permits issued.

Currently, administration of the permit is an economic

burden born primarily by the Desolation Canyon permit system and it is unlikely to ever become a self-supporting fee system. FF&SL has a fairly clear directive to maintain free access to sovereign lands and as there is no tractable method of distinguishing lands in the river corridor managed by BLM from those managed by FF&SL, the lowest common denominator of a no fee system will hold sway for at least the foreseeable future.

We are confident that an increased presence on the river and on the ramps coupled with information provided directly to the user through the permit system will encourage an improved land use ethic. The staff at Green River State Park has been receptive and is making the effort to contact and educate as many parties as they can. FF&SL have come forward with funding for a three-month seasonal position. The position is based out of Green River State Park and is supervised by the Assistant Manager of the Park.

From an enforcement perspective the State and the Federal agencies involved are at long last singing from the same sheet of music. Additionally, the permit is a sort of contract with the implicit understanding that if some aspect is broken that penalties may be imposed. Both BLM and State Parks Rangers now have a clear and consistent directive to work from and the boating public will be receiving the same message from any official contact regardless of uniform.

We look forward to reporting on a successful season come October.

## Literature Cited

Reiter, Doug, and, Dale Blanhna. 2001 Recreational Use, Value and Experience of Boaters on Rivers Managed by the BLM in Utah. Utah State University. BLM Task Order #25, Agreement #D910A30310.

## Appendices (not included)

- A. Cooperative Agreement
- B. Labyrinth Canyon Permit
- C. Permit Stipulations

**About the Authors:** David Dawson is a ranger for Utah State Parks based in Moab, Utah. He is specifically assigned duties as river ranger for the Southeast Region. Dennis Willis is an outdoor recreation planner for the Price Field Office of the BLM. He administers the river recreation program in Desolation, Gray and Labyrinth Canyons of the Green River. Pam Swanson is an outdoor recreation planner in the Salt Lake Field Office of the BLM. Prior to moving to Salt Lake, Pam was the recreation technician for the river programs in the Price Field Office.