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Wilderness debate: Is Utah at a turning point?

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They used to meet, it seems, only in court. Now they meet, too, at the bargaining table. They used to issue dueling news releases. Now they pen companion newspaper columns. They used to push competing bills. Now they sign cooperative deals.

In Washington County. In Nine Mile Canyon. Even along the Wasatch Front.

What's up with Utah's land wars? Why — after decades of bickering, blustering and battling — are environmentalists and conservationists suddenly reaching agreements instead of impasses with energy developers and local leaders? And, if there has been a tectonic shift in strategy for dealing with wilderness, off-road trails and drilling leases, will this softened landscape yield more hard-and-fast results?

"It's a new era. It's a hopeful era," said Dave Livermore, the Utah director of the Nature Conservancy. "We need to build on the momentum and what we've learned from the [negotiating] process."

This sea change doesn't necessarily signal clear sailing. Lots of disagreement, distrust and lawsuits remain. But adversaries agree that a new view of problem solving — spurred perhaps by combinations of economics, politics, practicality and even some battle fatigue — may provide the atmosphere for resolving long-standing disputes.

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Follow the leader • The model is Washington County, where a land bill shepherded through Congress last year by outgoing Sen. Bob Bennett, R-Utah, set aside 256,000 acres as wilderness while opening thousands of other areas to a variety of commercial uses.

Mark Ward, senior policy analyst for the Utah Association of Counties, says parties on various sides of Utah's public lands debate have come to realize that such negotiated agreements bring results, while legal challenges lead to a hardening of positions.

"In a lawsuit, you're asking a judge, who's not a public lands expert, to make a decision," Ward said. "Stakeholders know they're better off if they can reach a resolution on their own."

That's what happened this year in eastern Utah.

The Southern Utah Wilderness Alliance — known for its uncompromising stand on wilderness and its litigious nature — inked a deal with a longtime nemesis, energy producer Bill Barrett Corp., to allow drilling for natural gas on eastern Utah's Tavaputs Plateau near relics-rich Nine Mile Canyon.

Under the agreement, blessed by the Bureau of Land Management, Barrett reduced its original proposal by 181 wells and 418 drilling pads and reduced the surface impacts from 3,656 acres to 1,603 acres.

The clincher for SUWA: Barrett's concession to stay away from Desolation Canyon and surrounding scenic views.

In return, the energy company and other operators now can press forward with plans to drill 626 wells from 120 pads, bypassing years of costly challenges through government red tape and courthouse tangles.

Barrett Senior Vice President Duane Zavadil called the accord "good business."

"It provides certainty and predictability, and we advance the conservation goals that are in everyone's interest."

Counterpart Stephen Bloch, a SUWA attorney, heralded the deal as a "path forward to resolving difficult public lands issues in Utah."

Bloch and Barrett CEO Fred Barrett later wrote adjoining op-ed pieces in The Salt Lake Tribune about the agreement.

Underlying the truce, undoubtedly, was SUWA's reputation for litigation. Of myriad conservation organizations that Gov. Gary Herbert and the BLM brought together in January for the so-called "programmatic agreement," the energy company cut a deal with only one: SUWA.

"We might have had some leverage," conceded SUWA Associate Director Heidi McIntosh, concerning the organization's financial muscle that has allowed it to use the courtroom as a conservation tool.

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A shift in focus • The pact also came after a dramatic shift from the freewheeling Bush years to the more eco-sensitive Obama administration. It's a difference like night and day, according to some conservationists, that may have helped Barrett look toward compromise.

Bloch says the "acrimonious relationship" turned, in part, because the opposing sides were thrown together by Herbert and the BLM.

"It afforded SUWA and Barrett to have this forced interaction," Bloch noted.

Added Zavadil: "It was, 'Hey, we've got time here. Let's listen to what they have to say.' "

But whether such agreements are a key to future harmony concerning public lands appears less than certain.

One such pact may have backfired recently on El Paso Corp.'s plans to build a natural gas pipeline from Opal, Wyo., to Merlin, Ore. The Ruby Pipeline would pass through northern Utah and Wyoming.

Earlier this month representatives from a dozen counties across those states gathered in Salt Lake City to rip El Paso officials for cutting a deal with environmental groups. That agreement would pay the Western Watersheds Project and the Oregon Natural Desert Association \$22 million not to protest or litigate against the project.

"We were blindsided," complained Lincoln County (Wyo.) Commissioner Kent Connelly.

County officials learned about the secret agreement only from news reports and fear the “payoff” could aid those environmental groups in efforts to deter grazing on public lands. Like SUWA, Western Watersheds has a reputation for suing.

Connelly has vowed to go to federal court to stop the pipeline. Further, he said, Lincoln County — and, most likely, others — will not issue permits to El Paso to begin construction.

The El Paso case, explains UAC’s Ward, illustrates something many Utahns have learned the past two decades: To reach consensus on public lands issues, all stakeholders must be at the table.

“If you leave someone out of the process,” he said, “they will take shots at you.”

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Lesson learned • That’s something Rep. Jim Matheson, D-Utah, found out earlier this year when he proposed to set aside 26,000 additional acres of wilderness in the Wasatch Mountains. After the congressman announced his plan, Alta Mayor Tom Pollard balked, saying, “It’s been kind of jammed down our throat.”

By contrast, what Washington County did to remove long-standing roadblocks to consensus, Ward said, was to include everyone in negotiations. It began with a grass-roots process called Vision Dixie.

Bennett refereed the long and contentious debate, and along with Matheson marshaled the Washington County Growth and Conservation Act through Congress in March 2009. Among other things, it allowed for the creation of new national conservation areas and established Utah’s first scenic river, while selling off up to 9,000 acres of BLM land for development.

Just as significantly, the Washington County accord signaled that the battle lines for wild lands protection have shifted from a statewide approach to a county-by-county discussion, Ward said. That has allowed for a “loosening up” of local governments that “no longer have to stare down the barrel of a monolithic 9-million-acre wilderness bill.”

That reference, of course, is to the SUWA-backed redrock bill that would protect 9.4 million acres in Utah as wilderness. It is sponsored by Rep. Maurice Hinchey, D-N.Y., but supported by none of the Beehive State’s congressional delegation.

And U.S. Interior Secretary Ken Salazar made it clear during a recent swing through Utah that decisions on public land use will be made at the local level, rather than a broad-brush approach like that offered by Hinchey.

That’s something SUWA has yet to completely swallow. The organization continues to champion the redrock proposal on its website.

But conservation groups won’t be able to save all the wilderness outlined in Hinchey’s bill, according to Julie Mack, Utah director of The Wilderness Society. The Washington County process worked, she said, because it gave communities a voice. That led to deals in which everyone gave up something.

It’s not possible to afford wilderness designation to every unit proposed in the redrock bill, she said, but a significant amount of wild lands got protection in the Washington County bill.

“If you ask the [Washington] county commissioners,” Mack added, “they’d say they, too, gave up way too much” to conservationists.

The same process is being considered by other counties, including Piute, Emery and San Juan counties. The latter is home to vast tracts of wild lands, including Cedar Mesa. But negotiations there have stalled after Bennett's defeat at the Utah Republican Convention. Since then, SUWA and the County Commission have fallen into squabbling.

In a bulletin posted on its website last week under the headline "Help stop a backroom deal that's bad for Utah wilderness," SUWA alleges San Juan commissioners are seeking to diminish wilderness by creating more ATV access to wild lands.

If San Juan pushes a bad bill in Congress, it will reignite open warfare between environmentalists and county governments, warned SUWA Executive Director Scott Groene. "A big fight in D.C. would set things back."

But County Commissioner Bruce Adams said Groene's accusations of secret dealing are a "gross misrepresentation" and such statements have led San Juan officials to distrust SUWA.

"SUWA was unhappy with San Juan County for not having a map" designating which areas would be protected, Adams said. "We have told them and everyone else we are working on a map. We've got 5 million acres to consider, and we don't want to rush a decision."

With the right congressional supervision, San Juan can reach an accord with most conservation groups, Adams said. "But we aren't comfortable with SUWA."

Sen. Orrin Hatch, R-Utah, has said he is willing to step in for Bennett to see through such county-by-county agreements.

"When the [county] commissioners believe they have worked out a worthy land proposal, and that proposal has broad support by affected Utahns," Hatch pledged, "then I'll do what I can as a senator to support the plan."

Whether he or Matheson can get SUWA and San Juan on the same page remains to be seen. But in the end, according to Ward, there will be no resolution until disparate parties reach a truce.

"It won't be Bennett or Hatch who decides the tough issues. It will be the stakeholders."

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