

The Order of the Court is stated below:

Dated: April 06, 2018  
02:40:19 PM

/s/ LYLE R ANDERSON  
District Court Judge



7TH DISTRICT COURT- MONTICELLO  
SAN JUAN COUNTY, STATE OF UTAH

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SOUTHERN UTAH WILDERNESS ALLIA,	:	RULING
Plaintiff,	:	RULING
	:	
vs.	:	Case No: 170700016
SAN JUAN COUNTY COMMISSION,	:	Judge: ANDERSON, LYLE R
Defendant.	:	Date: April 3, 2018

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Plaintiff Southern Utah Wilderness Alliance (SUWA) filed this action over six months ago to seek a determination that members of the Board of Commissioners of San Juan County (the Board) violated the Utah Open Meetings Act, pursuant to Section 52-4-303 of the Utah Code. There is no dispute that members of the Board met with United States Secretary of the Interior Ryan Zinke (Secretary Zinke) on several occasions, either one, two or three at a time, and advocated that Secretary Zinke recommend to the president of the United States that the designation of the Bears Ears National Monument be altered or revoked. SUWA also complains that members of the Board met with four of six members of Congress representing the State of Utah as well as other officials in the United States Department of the Interior. The Bears Ears National Monument was located within San Juan County (the County), but nothing in the proclamation creating the monument granted to the Board any jurisdiction or advisory power over the monument. The County has moved the court to dismiss SUWA's complaint.

It may be natural for members of Congress who represent the citizens of Utah to listen to elected officials representing discrete subdivisions of Utah. It may also be natural for some secretaries or other officials of the Department of Interior to listen to those same elected representatives. But the fact that an elected official may be more successful than the average citizen at gaining the ear of powerful politicians or officials does not grant to those elected officials either jurisdiction or advisory power. Had the proclamation creating the Bears Ears National Monument granted to the Board a status that required Interior officials to consult with the Board before making decision about how to manage the monument, they would have advisory power and their meetings with Interior officials to discuss how the monument is managed would likely be governed by the Utah Open Meetings Act. However, it is obvious from the complaint that all the Board did was to advocate on behalf of the County or its citizens when meeting with members of Congress or Interior officials. Anyone can advocate. Anyone can lobby. That one can do so does not mean one has either jurisdiction or advisory

status. The Utah Open Meetings Act was clearly not designed to reach so far.

The motion is granted. Counsel for the County is instructed to prepare a formal order implementing this ruling. Moreover, pursuant to Rule 11(c)(1)(b), Utah Rules of Civil Procedure, the court questions whether the filing of this action by SUWA was for the improper purpose of intimidating the Board or other similarly situated officials, and whether the claims of SUWA are warranted by existing law or a non-frivolous argument for the extension of existing law, and directs SUWA and its counsel to show cause why they have not violated Rule 11(b) by filing this action. SUWA and its counsel are directed to file a memorandum addressing these questions by May 1, 2018. The point the court is most interested in having SUWA address is whether the argument they have made to the court would leave any meeting of the Board with any person or entity outside the reach of the Utah Open Meetings Act.

End Of Order - Signature at the Top of the First Page

CERTIFICATE OF NOTIFICATION

I certify that a copy of the attached document was sent to the following people for case 170700016 by the method and on the date specified.

EMAIL: STEPHEN H BLOCH steve@suwa.org  
EMAIL: JOSEPH J BUSHYHEAD joe@suwa.org  
EMAIL: KENDALL G LAWS kendall.laws@gmail.com  
EMAIL: LAURA E PETERSON laura@suwa.org  
EMAIL: J MARK WARD mark@balanceresources.org

04/06/2018

/s/ CONNIE ADAMS

Date: \_\_\_\_\_

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Deputy Court Clerk