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November 1, 2005

The Honorable Gale Norton
Secretary
United States Department of the Interior
1849 C Street, NW
Washington, DC 20240

Dear Secretary Norton:

I am deeply disappointed by the lack of resolve in a matter I first raised with you in May 2005 concerning the Bureau of Land Management (BLM) and illegal off-road vehicle (ORV) route signs placed by officials of Kane County in Grand Staircase-Escalante National Monument and wilderness study areas (WSA) in Utah. After numerous communications with the Department of the Interior, BLM and the Department of Justice, the Administration has failed to remove the unauthorized off-road vehicle signs from the Monument and WSAs and take appropriate action in response to the county's illegal actions.

I believe this matter of illegal signing should be resolved expeditiously. However, none of the responses I have received from the Department of the Interior and the Department of Justice provide any assurances that this will happen. I encourage the Department of the Interior to pursue affirmative legal action in concert with the Department of Justice, but I repeat that the Department of the Interior currently has the authority to remove the unauthorized signs and respond to the violations at issue.

In the most recent letter received from Ms. Rebecca Watson, Assistant Secretary for Land and Minerals Management, Ms. Watson noted, "the BLM requested through the Department of Interior Solicitor's Office that the U.S. Attorney initiate affirmative legal action against Kane County, for the removal of BLM route signs and the placement of unauthorized road signs." However, I have learned in a letter from Assistant Attorney General William Moschella, that as of 30 August, the Department of Justice's office of Environment and Natural Resources Divisions (ENDR) "is awaiting further instruction from the Department of Interior's Solicitor's Office." Unfortunately, these responses provide little evidence that the Department of the Interior is seriously advocating affirmative legal action by the Department of Justice. As this process continues, the signs remain up and BLM continues to fail to acknowledge its responsibility to manage these public lands, uphold the law and remove the signs.

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I am again requesting that the BLM use existing legal and administrative authority to take immediate actions that will result in the removal of the illegally posted ORV signs. The Bureau of Land Management currently has the authority to issue a trespass notice against Kane County and remove the signs that appear to be in violation of 43 CFR 2801.3 and 43 CFR 9239.

In addition, I want to stress the importance of continuing to pursue legal remedies available through the Department of Justice. As I have written in past correspondence, federal law (18 U.S.C. § 1361) protects property of the United States from any willful or attempted depredation. As property of the United States, BLM public lands require protection from physical “willful depredation or attempted depredation” under this statute. The county’s actions will result in damages to resources that the BLM has determined should be protected. While the Department of Justice, as the federal government’s legal representation, bears the responsibility of initiating legal action under 18 U.S.C § 1361, the Department of Justice relies on the commitment of the Department of the Interior to proceed with affirmative legal action. I look forward to a clearly articulated commitment to legal action by the Department of the Interior.

Ignoring or obfuscating your responsibility to protect these public lands is an inexcusable dereliction of your obligation under the law.

I understand that the nomination of Ms. Patricia Lynn Scarlett to serve as Deputy Secretary at the Department of the Interior is pending before the Senate. I would appreciate a satisfactory response from your office regarding Kane County’s illegal posting of ORV signs on federal property prior to the consideration of this nomination.

Sincerely,



Richard J. Durbin
United States Senator