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MH: John, thanks for meeting with me for this project. If you wouldn't mind please starting off by giving your full name, date of birth, and where you were born please.

JL: John David Leshy, L-E-S-H-Y, born October 7, 1944, in Winchester, Ohio.

MH: And a little about the family you were born into, mom, dad, any siblings...

JL: Two siblings; older sister, younger sister. My dad was a small business man, my mom was a homemaker. Winchester is in Adams County, on the edge of Appalachia, a predominantly Kentucky/ West Virginia kind of culture, the poorest county in Ohio. I escaped there, a product of affirmative action 1950s version, which was when Ivy League schools started promoting so-called geographic distribution, looking for kids from places that had never sent anyone to an Ivy League school. I ended up at Harvard, and stayed on for law school there, right after college. Then I went to Washington D.C., where I worked in the Justice Department, and then I worked for a non-profit environmental group in California; then I went to the Carter Administration in Washington D.C. in the Interior Department; then became a law professor at Arizona State U. in Tempe; then I went back and worked on Capitol Hill for several months for the House Natural Resources Committee; then I joined the Clinton Administration. I was there the entire Administration, heading the legal office of the Interior Department. (My title was Solicitor.) Then I came out here (San Francisco, California) to teach at UC Hastings College of the Law, where I have been ever since.

MH: When you were younger, did you have an inkling of something that interested you particularly, how did you discover Law?

JL: Like many people at the time, I went to law school because I did not have a clear idea what I wanted to do, and I thought law school would keep as many options open as possible. It was true. I litigated for a while. When I started working for a non-profit environmental group in California in 1972, I worked on western environmental issues. I have always been interested in the West. I travelled out here with my grandparents when I was 12. I was always interested in history, and I was a Boy Scout and spent a lot of time outside. Working on western land and natural resource issues pressed a lot of my buttons, so I stayed. I became deeply involved in

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natural resource management issues, law of natural resources. That has been my career path ever since.

MH: Do you find time amongst all the many things you have accomplished to spend time outside?

JL: Oh, sure. I do a lot of hiking. I have run a lot of rivers; one of my hobbies is rafting. I have rafted through almost all the rapids in the Colorado Basin, except one, Cataract Canyon. I will do that before I die. I have been through the Grand Canyon many times. I have spent a lot of time in Southern Utah; backpacking and exploring.

MH: Were you able to go into the area now known as the Grand Staircase- Escalante National Monument?

JL: I did a few trips there. When I lived in Arizona I was part of an informal group who would go backpacking just about every year in Capitol Reef or what became Grand Staircase or in the Grand Canyon.

MH: There have been movements in the past, maybe now, to create a larger area, all inclusive from Canyonlands to Zion. Where you aware of that?

JL: Yes. I have been on the Board of the Grand Canyon Trust almost from its beginning in 1985. It was founded by a person, Ed Norton, who became a close friend. Having spent time in that part of the world, and a student of western history, I knew that back in the 1930s, Harold Ickes proposed to have the President create a huge National Monument around the Colorado River in southern Utah, the Escalante National Monument. The idea was defeated by local opposition. I also knew about plans to develop the Kaiparowits coalfields.

MH: I have gotten the idea from talking with old time range managers from the area, that coalmine or gas development would somehow save their communities.

JL: I think in rural parts of the country everywhere, but especially in Mormon country because large families are common, there are not enough local economic opportunities to keep kids at home. There is a constant effort to provide jobs so kids can stay in the region. Coal development and industrial development, power plants and the like, were traditionally seen as a way to provide those opportunities. Southern Utah had a taste of that in the 1950s with the uranium boom, prospecting, a brief moment where there was a lot of exploration and some production.

MH: Escalante had a boom, more towards the sixties, where someone opened up a dress shop, another gas station, new store, and restaurant.

JL: Moab was the center of the uranium exploration and development. It was all around. A lot of those rustic, two track trails one sees across the landscape date from that era.

MH: You were in the Clinton Administration when the idea of the Grand Staircase-Escalante National Monument came up. It is in Utah. What were some of the challenges with that proposed Monument?

JL: There was a lot of attention being paid, by environmental groups and by others, to the idea of industrializing southern Utah. In the 1960s and 1980s, the Interior Department had issued a

bunch of coal leases on federal lands down there, which ended up being held by Andalex and PacifiCorp. Southern California Edison at one point wanted to build a bunch of coal-fired power plants down there. There was a long history of such proposals. We were aware of all that. The idea of the monument, something formal to protect a significant part of that country, really came from the White House, at the end of June or very early July, 1996. I remember quite well. Katie McGinty, the head of the President's Council on Environmental Quality, called me.

A few months earlier, proposals had informally floated around the Administration to do national monuments on some national park lands, in Utah and elsewhere. That was the first time in many years that that the notion of the president creating a national monument had surfaced. I was in the Carter Administration in 1978 when Jimmy Carter created 56 million acres of national monuments in Alaska. From that experience, I knew all about the Antiquities Act and how it worked; I played a minor role in those proclamations. After that, Presidents Reagan and George H.W. Bush had no interest in exercising that authority.

The idea of doing monuments on parklands kind of faded away, but then around July 1 Katie McGinty called me. It was a Friday afternoon and I was about to leave to go on a kayaking/rafting trip up in Idaho. She said you have to come over and talk. I went over to her office and she said, "The President is interested in doing a National Monument in Southern Utah. We want you to work on it, put together a team, flesh out the idea and serve up some options as to what it would look like. All confidential." I said, "Fine, I will start on it in three or four days when I return from this rafting trip." So, I went from her office to the airport, went on the rafting trip, and when I came back, my boss Secretary Babbitt, called me into his office and said, "What the hell is going on about a monument in Utah?" I told him about this meeting with Katie, and said "I was going to tell you when I returned, I just got back." He said he was at a White House dinner over the weekend and the President asked him, "How is your planning going on for this monument in Utah?" Babbitt had been embarrassed because he didn't know anything about it, and was irritated that I had not told him. I explained I found out right when I was going on this river trip. So, that was early July. I assembled a little team of four or five people and we started working on it, fleshing it out, all confidential. I called Charles Wilkinson, an old friend of mine and Professor at the U. of Colorado law school, and said, "I need help on this"; I knew he would be interested. I had a lawyer from our office, Paul Smyth, and a fellow named Tom Jensen, who worked with Katie at CEQ, and Lisa Brown, who worked at the Justice Department's Office of Legal Counsel, and I believe Peter Coppelmann, who also worked at the Justice Department. I picked people who had to sign off on the idea before it went forward; that is, it would have to go through CEQ, the Justice Department, and the Office of Legal Counsel. I picked Jayne Belnap, who was a biologist with the U.S. Geological Survey, because I knew her and knew she knew a lot about the science, and we had to pull together a science package as part of it. We worked on a draft proclamation. We had to wrestle with a bunch of issues like, who was going to manage it, how big it was going to be, where the boundaries would be. Then we had to put together a supportive package of information, what resources and values existed in the area and what should be protected. We assembled a lot of information, including a big bibliography of relevant scientific studies about paleontology, habitat, crypto-biotic soil crusts, and so forth.

We literally sat around a room for a few weeks, not full time, but we would meet every few days for an hour or two, and I would give people assignments and they would report back, and eventually we started drafting the Proclamation. We went through many drafts. I recall once we were trying to figure out where the southern boundary was going to be. Katie's instructions to me on size were rather general; the White House wanted to protect a pretty large area, to put the industrialization issue to bed, to stop the possibility of coal development. Katie did not mention an acreage figure, so we sat down with maps and tried to figure out what made the most sense.

MH: Jayne mentioned there was a concern to keep whole ecosystems intact, connected.

JL: That was part of it. Other than preventing mineral-based industrialization, we wanted to avoid unnecessary conflicts. We didn't want to include a lot of private land if we could avoid it, and we didn't want to draw boundaries that included many residents. In that part of the world, that's easy, because so few people live there. Someone said that there might have been a dozen people residing in that nearly two million acre area. During this process, someone brought in a copy of *Car and Driver* magazine which had a cover story on the most remote place in the continental United States, the furthest from a paved road. We all laughed, because the magazine said it was in the heart of what became the Grand Staircase National Monument. About fifty miles in any direction from any paved road, by far the most remote place in the lower 48 states, by that measure.

We couldn't have picked a more remote, unpopulated region. We wanted to make it as big as we could without running into unnecessary conflicts, and embracing the things we wanted to protect. In a way, the boundaries of the monument sort of drew themselves, you had Lake Powell and the Glen Canyon National Recreation Area on one end. We didn't want to go south into Arizona because that could have complicated things, so we put the southern boundary along the Utah-Arizona border. We had to gerrymander the boundary around communities like Big Water. At one point, I remember I called another old friend of mine, Martha Hahn, who used to work for the Grand Canyon Trust and for Grand Canyon National Park. She was then BLM State Director in Idaho, and in fact we had run inflatable kayaks on the Bruneau River in Idaho over that Fourth of July. I knew she knew a lot about the area. I called her one day, "Martha, where should we draw this southern boundary?" Using a map, while on the phone with her, she helped draw this last boundary.

Through all this I kept security on our plans very tight. The government leaks like a sieve but if you keep the group small enough and are strict enough, you can keep things secret. And we did, we kept it secret for several weeks.

Then there was the important issue of which federal agency was going to manage it. It was BLM land, but under the Antiquities Act, the President could have put the Park Service in charge.

I went to see Interior Secretary Babbitt, and told him, we have to decide who to recommend as the managing agency. My recommendation was that we put BLM in charge and he agreed, as I was fairly sure he would. I had worked with him from time to time when he was Governor of Arizona, and at one point I helped him with a big project in Southern Arizona that involved protecting a beautiful riparian area. He engineered a three-way land trade between the state,

the private land owner and the feds. The state and the private landowner each got some federal land for urban development on the west side of Phoenix, as I recall, and the BLM got this beautiful riparian corridor along the San Pedro. There was a question whether BLM should give it over to the Fish and Wildlife Service to manage because of its habitat values, but we (Governor Babbitt and I) argued that the BLM should manage it, because the rap on BLM was that it was the “Bureau of Livestock and Mining,” and that becomes a self-fulfilling prophecy if all it has to manage is rangeland and mining lands. We thought it was very important from a long term legacy standpoint that BLM should be given some good recreational and habitat lands to manage. We helped do that in the San Pedro, in Arizona. Eventually Congress made it the nation’s first National Riparian Conservation Area and kept BLM in charge. It is one of the prime birding spots in the world. It was the same issue with the Grand Staircase, I argued, so BLM ought to be in charge. Babbitt said, “Absolutely.” It wasn’t much of a discussion, and it was one of the few things I ran by him as we were completing the package to send over to the White House. There were a couple of other things to chew on: First, what do about the State in-holdings, and what to do about the existing coal leases in the area. We didn’t make it part of the proclamation, as I recall, but we did make a public commitment to work to trade out all of the State in-holdings in the monument. The idea was to trade federal lands of equal value somewhere else in Utah to the state. All the states starting with Ohio got some federal land at statehood. The last states in the lower--Utah, Arizona and New Mexico--got the best deal. Before Utah, new states got one or two sections out of every township of thirty-six sections. Starting with Utah in 1894, Congress said we will give you four sections of every township. So one ninth of the area of Utah is scattered, state-owned sections of land. Because state lands are usually colored blue on maps, it is often called the great blue rash.

We wanted to make it clear we were not interested in locking up the state land found in the monument, and we wanted to be fair to the state. So we agreed to push for a big land exchange.

Similarly, we went to the coal companies holding the existing leases in the monument, and we said, “We will buy you out. Let’s do a deal—we give you some money and you give up the leases.” We could have tried to litigate, squeeze them out without paying, but we felt there was no guarantee of success, and anyway that wasn’t the fair thing to do. So when the monument was unveiled, those two things were a part of it. We wanted to be fair to the coal companies, and to the State of Utah. Both those initiatives helped dampen the opposition, I believe. And both of those things came to fruition. First, we did a huge land exchange with the state, which took a couple of years to negotiate.

MH: Where was that exchange?

JL: It turned out to be much bigger, involving state land all over the state, almost all of the state inholdings in the national parks and the National Forests, as well as the Grand Staircase, a couple of hundred thousands of acres of land all-told, as I remember. The Feds cleaned out most of the State in-holdings and gave the State a bunch of federal lands outside of conservation areas, mostly mineral lands that the State wanted for development.

MH: Do you follow those parcels, the mineral lands?

JL: At the time, as I recall, coal bed methane (CBM) was the mineral many were interested in. The State wanted BLM-managed federal lands they thought would be valuable for CBM. I believe, although I'm not certain, that the State has leased some of these lands they got, and there is some mineral development on them. That state-federal exchange took a couple of years to negotiate. The idea of doing a massive land exchange in Utah was an old idea. When Scott Matheson was governor back in the eighties, he pushed a massive land trade, but could never bring it across the finish line. Others had also tried and failed. It is ironic that, while the Utah state government was not happy about the Grand Staircase-Escalante National Monument, that was actually the catalyst for completing a deal that the state had been pursuing for a long time. It took a couple of years to negotiate, as I said. Geoff Webb and Molly McUSIC were the chief negotiators for the Feds, and they get a lot of credit for pulling this big deal off. It started when, after the Monument was created, and as the tempers were cooling a bit, I sat down with Brad Barber, who was working for Governor Leavitt then. I said, "We need to do this land deal, this trade." Brad agreed that the state was really interested in doing it. I said, "The Governor has to spend some political capital doing this." At that time he was at something like a 95% approval rating. I said if he does a deal with the state, he might lose ten approval points, but that would still leave him at 85.

When the deal was done, we had a big celebration, we went to a high school in suburban Salt Lake City and there were thousands of school kids there, because the deal meant money for public schools in the state, since the lands the state got became so-called "school trust" lands. Bruce Babbitt told the audience that Governor Leavitt had been a tough negotiator and picked his pocket, stealing all this valuable mineral land from the feds in return for inholdings the state could never develop anyway. He said all the right things, it was great, everyone was happy.

Back to the monument creation: We started work in early July, and sometime in late August, word leaked out to Frank Clifford, a reporter for the LA Times, what we were doing. I'm confident none of our working group leaked, but by that time word had filtered out a little beyond our working group, and somebody told someone on the outside who told Clifford, who covered the Interior Department. He called up and said, "You guys are working on a monument, we know about it, we are going to write a story," and he did. When it was published, the Utah delegation announced their opposition and demanded a meeting with Interior. I seem to recall it was a Saturday when the delegation came down; Orrin Hatch, Bob Bennett, Jim Hansen, and others, and met with the Secretary. I was in the room. They said things like, "You can't do this, and it is an outrage." A couple of days later I went up to the Hill and met with the delegation's staff, and explained to them in some detail what the terms of the proclamation were. That was, I think, still in late August. We then had several days, maybe a couple of weeks, of listening to their concerns and protests. We had already pretty much figured out what their hot button issues were going to be. They didn't want the coal locked up, but we couldn't give on that because it was the primary reason we were doing it. We knew they were going to be concerned about grazing and ranching, and concerned about hunting and fishing. From the very beginning we had planned to put in the proclamation that nothing in it would affect hunting and fishing and ranching. We also had decided not to claim Federal water rights. They said, "We want BLM to manage it." We said that was our intention from the beginning. In short, we had correctly anticipated a lot of their concerns and pretty much addressed them in what we recommended

to the President. We knew it would not stop their public furor over the monument, but I think in the end it did take a good deal of the edge off their opposition. If Babbitt had said we are going to put the Park Service in charge, no hunting, it would have made more problematic, and might have developed into more of a west-wide issue. We were concerned about this. We knew there would be a fight, knew the Utah people would hate it initially, but we did not want to do it in a way that would trigger a protest across the west.

MH: It is always on the edge, the bitter feelings bounce around here and there, recycle. I think Utah is in Federal Court right now trying to retake Federal Lands.

JL: Utah and Alaska are the two states who, in the past few decades, have been most strident about beating up the Federal Government over federal land.

MH: I remember Nevada had a rebellion in the 70s...

JL: Yes, but Nevada and most of the other western states have changed their attitude, as they have become more urbanized, with modern urban-based economies. A good illustration of this is that, the last time there was a major piece of litigation in the nineties brought by some right-wing group arguing that the Feds had no legal right to hold land in the West, Nevada came into the case on the side of the federal government. Most western states now are not interested in fighting the federal government, because they have become much more urban (actually, the most urbanized region in the country, although most people don't realize that), and became more appreciative of open spaces and federal land. They get cheap open space that the federal government manages.

MH: I read an essay you wrote in the early 80s on the Sagebrush Rebellion in Nevada, and the idea of suing over federal land ownership, which was fraught with problems.

JL: The legal theory of the "rebels" is not credible; it goes against more than a century of judicial precedent.

MH: Is it still the same argument being presented by Utah, or is there anything new added into the proceedings?

JL: Nothing really new. If you were making this argument in 1830, it may have a little bit of credibility, but in 2014, I don't believe a single Justice on the Supreme Court today would take it seriously, if it got that far, which it probably won't since even Utah has said it is not interested in testing the argument in court.

MH: Since the Monument was designated, there is the occasional flare up of ideology, but I also heard another issue that revolved around real estate speculation in Kane County based on the mining leases becoming active. It seems as if they are still stinging from that.

JL: If we are talking about coal leases, think about it this way. If the monument had not been created, knowing what we know now, I doubt if those coal leases would have ever been developed. Today, something like half the coal-fired power plants in the country are shutting down. Coal is on its way out. The thought that Southern Utah was going to industrialize based on coal has proved very shortsighted. Some of those same people are now saying tar sands and oil shale are fuels of the future, but I doubt it.

MH: And in North Dakota, I should do an oral history project up there. Someday historic.

JL: People are making a lot of money up there, but that's mostly gas, and some oil. Coal and oil shale and tar sands, by contrast, are too dirty to be developed over the long term. Despite the expenditure of billions of dollars on research, no one has figured out a way to clean them up. The climate problem is real and very serious, and carbon emissions are a big cause. To bet your future on coal in 1996 would have been a big mistake in hindsight.

MH: And why isn't that transmitted into the public, it is all so suppressed. Utah is unique, odd in some ways.

JL: When we were putting the monument together, I went back and dug up some of the press reaction to Arches National Monument when it was created by President Johnson in about 1964. And the most vociferous critic, who said, "This is the ruination of southeastern Utah, taking our future away," etc., was Bob Bennett's father, who was then governor. We found this quote and fed it to the press. It showed that this was a familiar pattern, the President creates a big national monument, some local politicians bitterly criticize it, and twenty-five years later most everybody loves the monument.

MH: It is underemployment when you are dealing with tourism economy wages, but you do have a broad group of people from all over the world to enjoy and spend money in Utah.

You mentioned a few challenges, any other you care to mention?

JL: There was some opposition to the Grand Staircase-Escalante inside the Administration, interestingly enough, led by the Chief of Staff, Leon Panetta. He had served in the Nixon Administration and then became a Democratic Congressman from Monterey, CA. A very seasoned political guy. Part of Panetta's job was to worry about the 1996 election. I think the Clinton people thought overall the Grand Staircase was a plus politically. Panetta, however, saw it as a minus because it would likely cost Congressman Bill Orton his seat. Orton was at the time the lone Democratic member of Congress from Utah. Panetta was convinced (and he was right) that the controversy about this would defeat Orton. He wanted every Democrat he could get in the House, and so sacrificing one for this national monument was, he thought, unacceptable. He fought it, but he was overridden by the President.

When the White House announced the President was going to do this, it scheduled the signing ceremony at the Grand Canyon, in Arizona. Why? Some in Utah and the press tried to claim that Clinton was thumbing his nose at Utah. The truth was, the logistics of doing it in Utah were too complicated. It was too difficult to get to any place close to the monument in Utah. I mean, could you imagine Air Force One flying into Escalante? (Laughter) They couldn't figure out the logistics ... it was not going to happen. The President was on a campaign trip and so Air Force One flew from Chicago to the South Rim. I didn't go to the ceremony because I was tied up in Washington. While they were flying, I got a call from Air Force One from Harold Ickes, Jr. He was Deputy White House Chief of Staff to Panetta, and he was on Air Force One and was working on the President's remarks at the ceremony. He called me because he wanted me to walk him through what the Monument did, give him the background. So, I did. It was hard to hear because the plane was in flight and there was jet whine. The irony, of course, was that Harold

Ickes' dad had promoted the Escalante National Monument that never got done back in the 30s. In fact, his father was the longest serving Secretary of the Interior in history; Babbitt is tied for second. When we hung up, I thought how funny that his dad had the original idea sixty years earlier; such a coincidence, or completing the circle.

After the announcement, we started pursuing the state land exchange and talking to the coal companies with leases. And fairly quickly settled with them. The coal companies at that point were reasonable because they now knew these leases weren't going to be developed. I think that, while Andalex seemed to be serious about wanting to open up a coal mine there, in hindsight they were probably relieved to get some money out of the leases. Their business plan was to mine the coal, put it on trucks, drive the trucks on mostly primitive roads to St. George, put the coal on rail cars, take the coal by rail from St. George to Long Beach, put the coal on boats, and send it to Korea for burning. Tell me how that could be profitable, even back then?

MH: That seems to be the biggest problem with any proposed resource development out of that area.

JL: The area is just too remote, and there is no infrastructure. Where are the people going to live who will work at that mine? I think Andalex sincerely wanted to open a mine there, but once they sat down and looked at all they had to do, then looked at the opposition, and when we gave them the excuse to basically beat a retreat, with some cash, they took it. We offered them bidding credits to buy federal coal somewhere else. At that point we were not opposed to coal development, but we didn't want it there. Andalex, a Dutch owned company, was having a hard time figuring out if they had a future in coal at all in the United States. They ended taking money. I think we paid them 19.5 million dollars for their leases. PacifiCorp had even more remote leases with poorer coal, and by that point, I think, Warren Buffet had taken over PacifiCorp. We bought out their leases for \$4 or 5 million. Neither deal was controversial.

The next effort was to do a management plan for the monument. The Utah delegation, even though it was not happy, helped us get money to do that from Congress. It was pretty well funded at the beginning. Bennett and Jim Hansen made that happen.

MH: And did people think in terms of the benefits; good jobs, educated people?

JL: Once it was a fait accompli, the attitude of most Utah officials was, now we are going to make the best of it. It happened fairly quickly. Utah filed a lawsuit and all the opponents wanted to challenge the President's decision. The lawsuit was interesting. I felt comfortable that we had done our homework, crossing the t's and dotting the i's, all that kind of stuff, to withstand any legal challenge. Historically, every time the Antiquities Act was used and was challenged in court, the President has always won. The first big case involved the Grand Canyon. Teddy Roosevelt made the first preservation efforts at Grand Canyon, and made a big monument there in 1908. A local miner sued him and the case went all the way to the Supreme Court. The miner said this is not worthy under the Antiquities Act. In 1920 a unanimous Supreme Court, in an opinion written by a Justice from Wyoming, effectively said: "Are you kidding? The Grand Canyon is one of the most scenic and scientifically interesting places in the world. Of course it's worthy." So the law was very much on the side of the President, and we had put together a good factual record, so we were quite confident we would win the litigation ultimately. What

did surprise me was this. The litigation was filed in Utah and it went before a judge who used to be Orrin Hatch's Chief of Staff, and had been a quite well-known Republican operative. Although I knew we had a strong case, I thought we might lose before him, and have to win on appeal. He sat on the case for a couple of years and ended up writing a very long opinion, something like a hundred pages, meticulously going through every argument, and concluding, "This is perfectly legal." So, we won in the District Court, didn't have to go up on appeal.

MH: This is why I felt I should ask about the current state in regards to the Antiquities Act, aren't they trying to chip away at the Act?

JL: The House recently narrowly approved a bill that would make it harder for the President to use the Antiquities Act to protect federal land. It is sad that this has become so partisan now. It did not used to be that way. But now only three democrats out of a couple of hundred voted for the bill, and only ten republicans out of 220 or so voted against it. That bill will go nowhere in the Senate. In fact, since 1906 when the Act passed, Congress has never changed the Antiquities Act, except directly once and indirectly once. It exempted Wyoming from the operation of the Act in 1950, in kind of a pique because Franklin Roosevelt declared Jackson Hole National Monument in 1943. Congress indirectly put Alaska off limits to the Antiquities Act in the 1980 Alaska Lands Legislation, which otherwise protected more than one hundred million acres of federal land for conservation in the state. So losing the Act in Alaska was a small price to pay for that.

Other than those two situations, the Antiquities Act has been untouched, and is still useful. President Obama has used it several times already to protect lands. I think it is a huge success story; one of the great laws, if you look at all the lands it has protected. Congress has undone a handful of tiny national monuments, but the others have survived. In fact, the typical pattern is, the President uses the Act to protect a place like the Grand Canyon, then a few decades later, Congress says, "That's great, let's make it a National Park." That pattern has been repeated over and over again; at Death Valley, at Zion, at Arches. Congress even put the Jackson Hole National Monument in Grand Teton National Park a few decades after stopping the President from using the Antiquities Act in Wyoming. They all started out as Presidential Monuments, and later Congress said, 'Good idea, we want some credit too.' Wyoming Senator Cliff Hansen had, as a young man, participated in the protest of FDR's action, and later, as Senator, said the protest was a big mistake and the monument was great.

MH: Which brings up why this particular monument was unique, it wasn't going to become a National Park.

JL: Federal land can only become a "National Park" by Congressional action.

MH: Oh, they are both Interior?

JL: The National Park Service and the BLM are both at Interior. The Forest Service is in the Agriculture Department. Grand Staircase was the first BLM monument. Clinton went on to do a dozen more, and Obama has done some. The Grand Staircase created an important precedent, giving BLM some outstanding conservation lands. That has been very important to the agency.

- MH: And I think it was in Bruce Babbitt's comments that the process was refined after the Grand Staircase was designated to make it more inclusive.
- JL: One of the important reasons for keeping management in BLM was the hunting, sport hunting is not allowed in National Parks. Part of the idea of a BLM monument is that it is somewhat different from a park; in part because it allows hunting and tolerates some other uses you may not tolerate in a Park.
- MH: Any other comments? Successes, results? There was the designation, the exchanges.
- JL: I am obviously biased, but I think the Grand Staircase has been a huge success story and will pay many dividends to the nation, and to southern Utah, for a long time. In hindsight, as I said, it was very unlikely the area would have industrialized anyway. Grand Staircase was the formal end to that dream, a kind of turning point that showed, this region's future is going to be primarily based on recreation, scenery and tourism, not heavy industry.
- MH: Interesting after studying populations over time in the area, even on the Kaiparowits, the populations have changed very little over time. Mostly because the land cannot sustain population growth of significance.
- JL: It is rugged and isolated, so that is its fate. Look at the difficulty the Mormons had moving across the area with the famous "Hole in the Rock" road in the nineteenth century.
- MH: I think the County is trying to pave it now, precipitated by the book The Undaunted, and the ensuing mass of people are going out that road to track their heritage. Though if you start grading and paving then you have a new set of problems in a place so remote. Last question; your current assignment?
- JL: I am a full-time teacher here at UC Hastings. I also moonlight with a foundation that does a lot of land conservation work, not too much in Utah, but in other parts of the U.S. Molly McUsic is the head of the foundation. I still spend a lot of time on land conservation, especially involving federal lands. I still stay in touch with some former colleagues in the Interior Department. I teach subjects in this area, Indian Law, Public Land Law, Water Law. I try to keep a hand in it.
- MH: Charles Wilkinson spoke about spending time on the Navajo Reservations, working on Indian issues. Did you work a bit together then?
- JL: Yes, we are good friends. We did a project on the Hopi Reservation years ago, we serve together on the Board of the Grand Canyon Trust, and we co-author a law casebook on Federal Lands and Resources. We are about the same age, and go way, way back.
- MH: Any last comments on...
- JL: Utah? Utah is really interesting place. First of all, its landscape is so wonderful, and second, the cultural aspects are fascinating. I have spent a good deal of time in and around Indian reservations and with some Indian people, as well as some of the Mormon communities. The rootedness of the native communities and tribes and the rootedness of the rural Mormon communities in Southern Utah and northern Arizona are very similar in many ways. Both have a deep attachment to place and resist change. It has been fascinating to observe that from a kind

of anthropological standpoint. The scenery and natural features are so magnificent that it deserves to be preserved as much as possible for future generations. We would be fools to want to industrialize it.

MH: I remember when Jayne told me that there is nothing pristine there, in Utah, anymore, and hasn't been for a long time.

JL: Livestock grazing has hammered a lot of that land. Jayne Belnap has done some interesting work on sediments and dust. She and some colleagues have gone into some of the alpine lakes in southwestern Colorado and measured the sediment layers, like tree rings. One can actually date events by changes in sediment layers. They could see that in the 1880s there was a huge increase in sedimentation when millions of cows came into the southwest and stripped the land, causing dust storms that deposited huge layers of sediment. They can date it.

One of the things our foundation works on is grazing buy-outs, buying out ranchers willing to sell to get cows off some of these lands to restore them. We helped fund some buyouts in the Grand Staircase, but they turned into kind of a political football. In the early 2000s, a couple of ranchers wanted to sell out, and so the Grand Canyon Trust bought them out. Their allotments were difficult to manage, and it was difficult to make money ranching, and the Trust said, "Look, let's just buy you out and turn the permits back to the government and take the cows off the land, and help restore the land." The matter went to then-Secretary of the Interior Gale Norton, she was a kind of Libertarian who thought this was a great market-place solution; the ranchers get paid, the environment gets better, everybody is happy. So she said, "Sure, this is a good idea, go ahead." So, the Trust went ahead, bought the permits, offered them back to the government if it would retire the land. At that point Gale Norton was hammered by the Cattlemen's Association for ending grazing, so she changed her mind and refused to do it. The Trust still has the grazing permits even though they don't want to graze cows there.

MH: Bill Hedden, or Charles, one of them said, they had ranchers come to them and say that they wanted to sell their permits, they were tired of doing the ranching on leased land, their posterity did not want to continue the operation, they were not making money and it is very expensive to carry on. That actually is not brought up as much as it should be.

JL: The problem, frankly, is mostly a trade association problem. The individual ranchers are more than happy with these buyouts; they get paid, they get out of a declining industry, their kids can go somewhere else, they are no longer tied to the land. But the Cattlemen's Associations hate buyouts because every ranch that is retired lessens their power. It is the Cattlemen's Associations, and to some extent economic interests like rancher supply companies, what economists call "third party effect" people, who resist these buyouts. They do not want to see ranching decline. They are the ones who fight this, not the individual ranchers. For individual ranchers, conservation buyers are a good thing economically. At the Grand Staircase, ironically, one of the ranchers who sold us a permit turned around and protested to the Secretary of the Interior that the Trust should not be allowed to retire the land from grazing. He took the money, though.

MH: Was that the Calf Creek piece?

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JL: I believe so.

MH: It is a beautiful place. I appreciate your efforts doing the interview and spending some time with me.

JL: I hope I have been of some help.

MH: Absolutely. Thank you again.

Interview ends, time 0:55:44