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ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature – Second Regular Session

COMMITTEE ON FEDERALISM & STATES' RIGHTS

Report of Regular Meeting
Wednesday, January 20, 2016
House Hearing Room 5 -- 9:00 a.m.

Convened 9:01 a.m.
Recessed
Reconvened
Adjourned 11:10 a.m.

Members Present
Mr. Finchem
Mr. Mitchell
Mr. Thorpe
Mr. Campbell, Vice-Chairman
Ms. Townsend, Chairman

Members Absent
Ms. Rios
Ms. Velasquez
Mr. Wheeler

Agenda
Original Agenda – Attachment 1

Request to Speak
Report – Attachment 2

Presentations

Name	Organization	Attachments (Handouts)
Speaker David Gowan	Arizona House of Representatives	None
Tom Van Flein	Congressman Paul Gosar's Office	None
Sen. Sylvia Allen	Arizona Senate	None
Dwight Kadar, Mike Schroeder	Arizona Liberty	Attachment 3

Committee Action

Bill	Action	Vote	Attachments (Summaries, Amendments, Attendance)
None			
	Committee Attendance		Attachment 4

Jackie Wright, Chairman Assistant
1/20/16

(Original attachments on file in the Office of the Chief Clerk; video archives available at http://www.azleg.gov)

convened 9:01 A.M.
adjourned 11:10 A.M.

REVISED - 01/19/16 **REVISED - 01/19/16** **REVISED - 01/19/16**

ARIZONA HOUSE OF REPRESENTATIVES
Fifty-second Legislature - Second Regular Session

REGULAR MEETING AGENDA

COMMITTEE ON FEDERALISM AND STATES' RIGHTS

DATE Wednesday, January 20, 2016 ROOM HHR 5 TIME 09:00 A.M.

Members:

Mr. Finchem	Mr. Thorpe	Mr. Campbell, Vice-Chairman
Mr. Mitchell	Ms. Velasquez	Ms. Townsend, Chairman
Ms. Rios	Mr. Wheeler	

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1. Introductions of Members and Staff
2. Comments and Presentations - Federal/State Land Issues and Sedona National Monument:
   - Speaker of the House, Honorable David Gowan
   - Congressman Paul Gosar or Staff
   - Senator Sylvia Allen
   - Concerned Citizens of America or Arizona Liberty
3. Adjourn

JW
~~1/14/16~~
1/19/16

People with disabilities may request reasonable accommodations such as interpreters, alternative formats, or assistance with physical accessibility. If you require accommodations, please contact the Chief Clerk's Office at (602) 926-3032, TDD (602) 926-3241.

Attachment 1

PLEASE COMPLETE THIS FORM FOR THE PUBLIC RECORD

HOUSE OF REPRESENTATIVES

Please PRINT Clearly

Committee on Federalism & State's Rights Bill Number N/A

Date 1.20.2016 ☐ Support ☐ Oppose ☐ Neutral

Name Angela LeFevre Need to Speak? ☒ Yes ☐ No

Representing herself (resident of Sedona) Are you a registered lobbyist? NO

Complete Address 4410 OAK CREEK BLVD, SEDONA, AZ 86336

E-mail Address aglefevre@gmx.com Phone Number 928-399-0999

Comments: would like to present at another time when ~~fully~~ fully prepared!

*****FIVE-MINUTE SPEAKING LIMIT*****

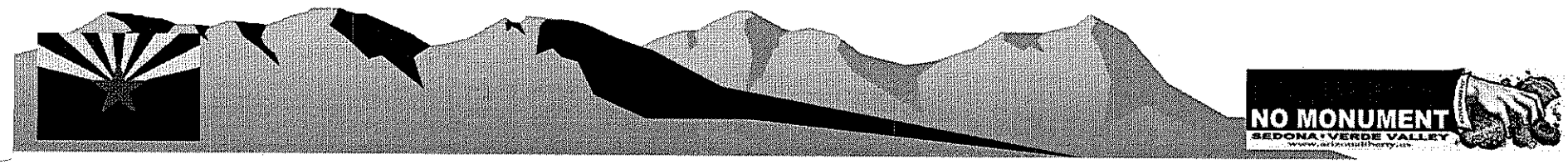
Attachment 2

January 20, 2016

Arizona Liberty

Takes an in depth look at the:

Sedona Verde Valley Red Rock National Monument Designation



Attachment 3

Arizona Liberty

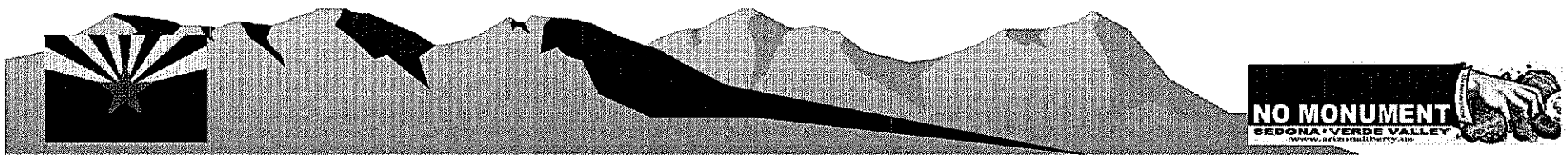
"Self-Financed" Grassroots Organization of Sedona Residents

Dwight Kadar - Legislative Liaison

Mike Schroeder - Research & Website

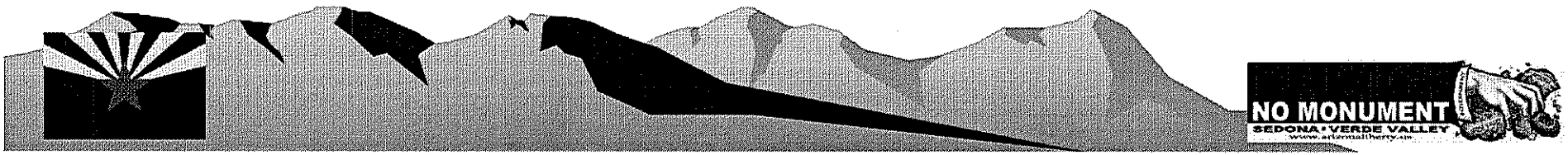
J. Rick Normand - Research & Writer

Susan Amon, Communications & Technology



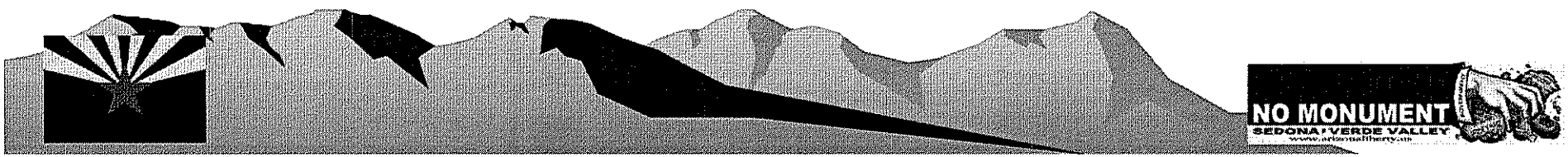
What is the1906 Antiquities Act?

- Designated unilaterally by an EXECUTIVE ORDER (President) or by LEGISLATION (Congress)
- Can be done with LITTLE citizen or state involvement
- Used to PROTECT historic artifacts and sites
- Must be CONFINED to the “smallest area” necessary



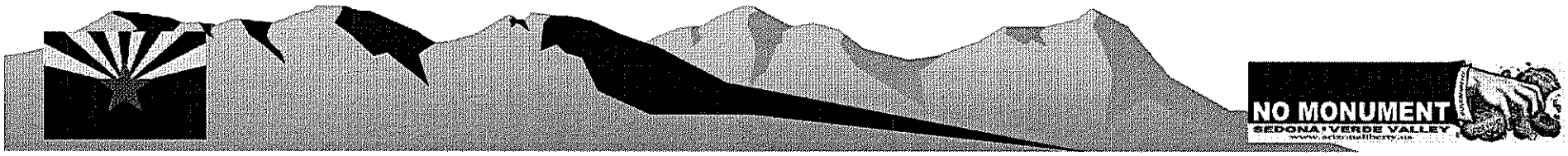
National Scenic Area or Monument

- 2010 National Scenic Area (Died in Congress)
  - Keep Sedona Beautiful (O'Halleran)
  - Democrats of the Red Rocks (LeFevre)
  - Congressional Legislator (Kirkpatrick)
- 2016 National Monument (By Proclamation)
  - Keep Sedona Beautiful (O'Halleran)
  - Sedona City Council (LeFevre)
  - Congressional Legislator (Kirkpatrick)



1906 Antiquities Act – Section 2

The President of the United States is authorized, in his discretion, to declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be National Monuments, and may reserve as a part thereof parcels of land, *the limits of which in all cases shall be confined to the SMALLEST area compatible with proper care and management of the objects to be protected.* When such objects are situated upon a tract covered by a bona fide unperfected claim or *held in private ownership, the tract, or so much thereof as may be necessary for the proper care and management of the object, may be relinquished to the Government*, and the Secretary of the Interior is hereby authorized to accept the relinquishment of such tracts in [sic] behalf of the Government of the United States.



Legal Implications

- Federal Government's ability to reach beyond the confines of public land and regulate activity on adjacent state and private lands has startled many states, particularly in the West, where federal lands are extensive. More specifically, this doctrine is known as "the inholder's rule" as defined by the U.S. Supreme Court.

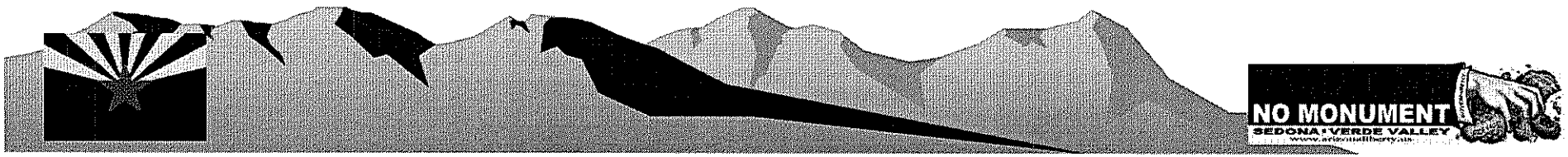
- Private and state lands subject to regulations under statutes pursuant to the extra-territorial application of the Property Clause must be within the perimeter area of a designated conservation unit or ENTIRELY SURROUNDED by federal lands (as would be the case with Sedona and the Village of Oak Creek)

- The application of the PROPERTY CLAUSE (proven by case law), CAN APPLY to all levels of government controlled land, but has never been exercised in regards to a NATIONAL FOREST that can be found. A National Forest designation NOT subject to the PROPERTY CLAUSE as outlined in the Antiquities Act

Unintended Consequences

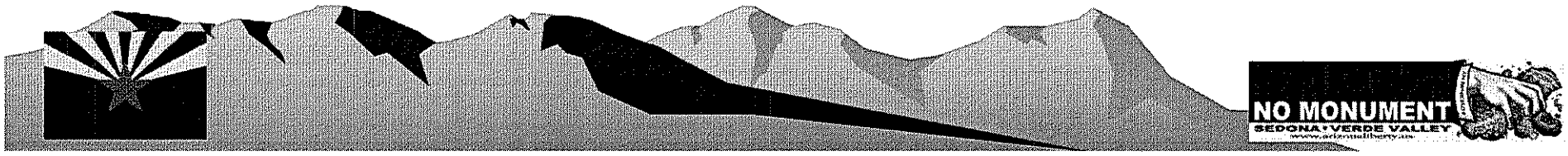
- Increased Tourism
  - Visitors, Traffic, Vandalism, Cost
- Restricted Access
  - Camping, Shooting, Hunting, Riding
- Restricted Grazing
  - Ranchers out of business; Businesses shuttered

NO city or unincorporated municipality has <u>EVER BEEN TOTALLY</u> encased inside a national monument ("inholder")



Unintended Consequences

- Restricted Water Rights
  - Federal, State and EPA Regulations
- Restricted Property Rights ('inholder")
  - Property bordering national monument
  - Property Clause (result of NEPA)
- Degraded local quality of life
- Lost business revenue and jobs
- Limited utility company access
- Loss of local and state revenue
- The Property Clause limits personal property rights should the Government deem any National Monument violations



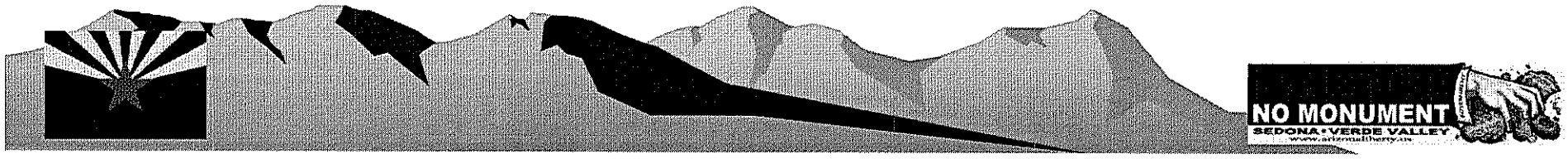
Unintended Consequences

NATIONAL MONUMENTS and NATIONAL PARKS

AUTOMATICALLY given
DHS Higher Alert Status

A City has NEVER been totally surrounded inside a national monument and made an "inholder"

30% of NATIONAL MONUMENTS have been converted to NATIONAL PARKS



The Rules Are Different

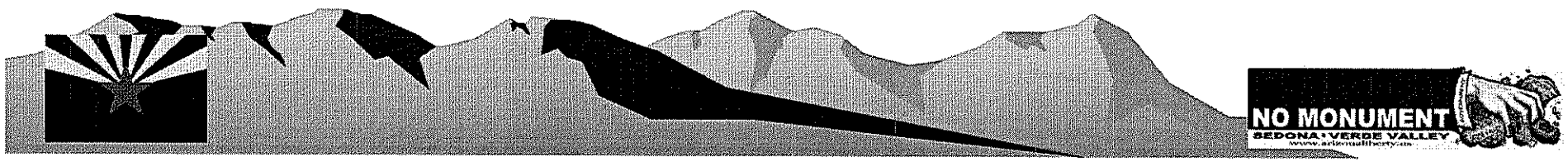
National Forest Service Rules are <u>OPEN</u>

National Monument Rules are <u>RESTRICTIVE</u>

More Government Regulations = Less Personal Freedoms

RESTRICTIONS
LEAST (1) TO MOST (5)

1. National Forest
2. National Monument
3. National Scenic Area
4. National Park
5. Wilderness Area



Neighboring State Monument Designations With LITTLE to NO Public Input

Basin and Range (Nevada)

700,000 Acres in July, 2015

San Gabriel Mountains (California)

350,000 acres in October, 2014

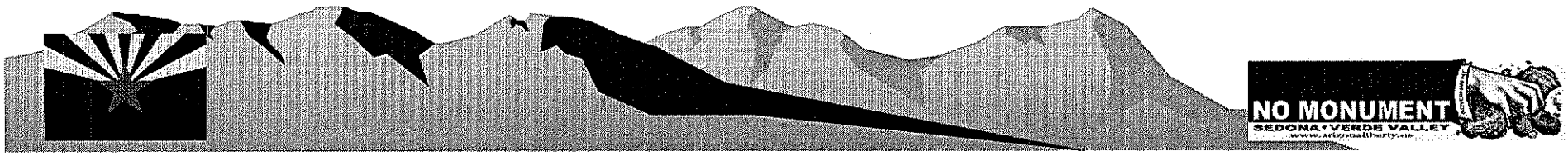
Organ Mountains Desert Peaks (New Mexico)

500,000 acres in May, 2014

Grand Staircase – Escalante (Utah)

1,900,000 acres in September, 1996

<u>MOST</u> Presidents <u>ABUSE</u> the Antiquities Act, typically in their last year in office.



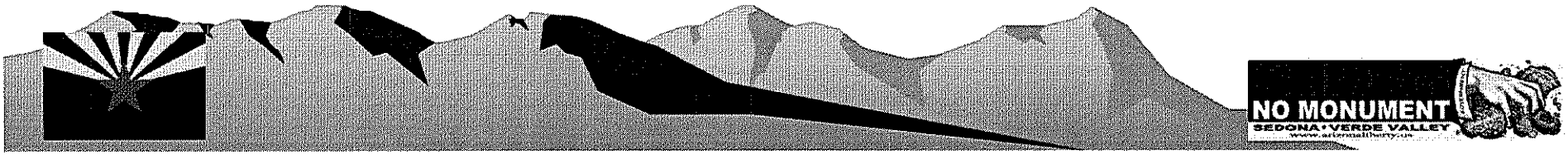
Grand Staircase - Escalante

Established under the Antiquities Act

- Designated unilaterally by President Clinton
- Not supported by local stakeholders, State Governor or elected officials
- Announced with 24 hours advance notice to the Utah Governor
- Encompassed 1,900,000 acres

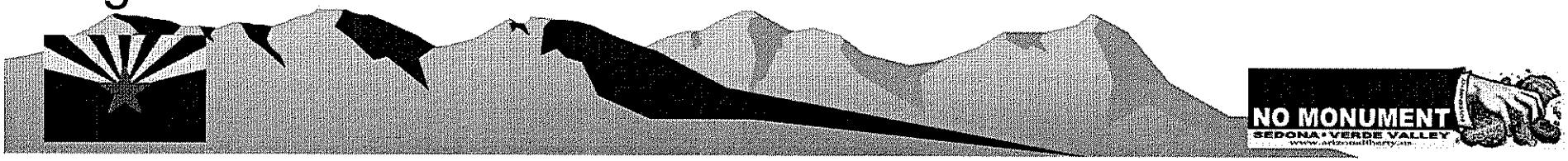
Unintended Consequences

- Managed by Bureau of Land Management
- Promised "no changes to management guidelines"
- Restricted property access for road repair, fence maintenance, etc.
- Degraded businesses, livestock grazing, and local quality of life
- Shuttered businesses and depopulation (150 -> 50 elementary students)
- Residents concluded "officials have deliberately misled the public "



The Process is Broken After Years of Abuse

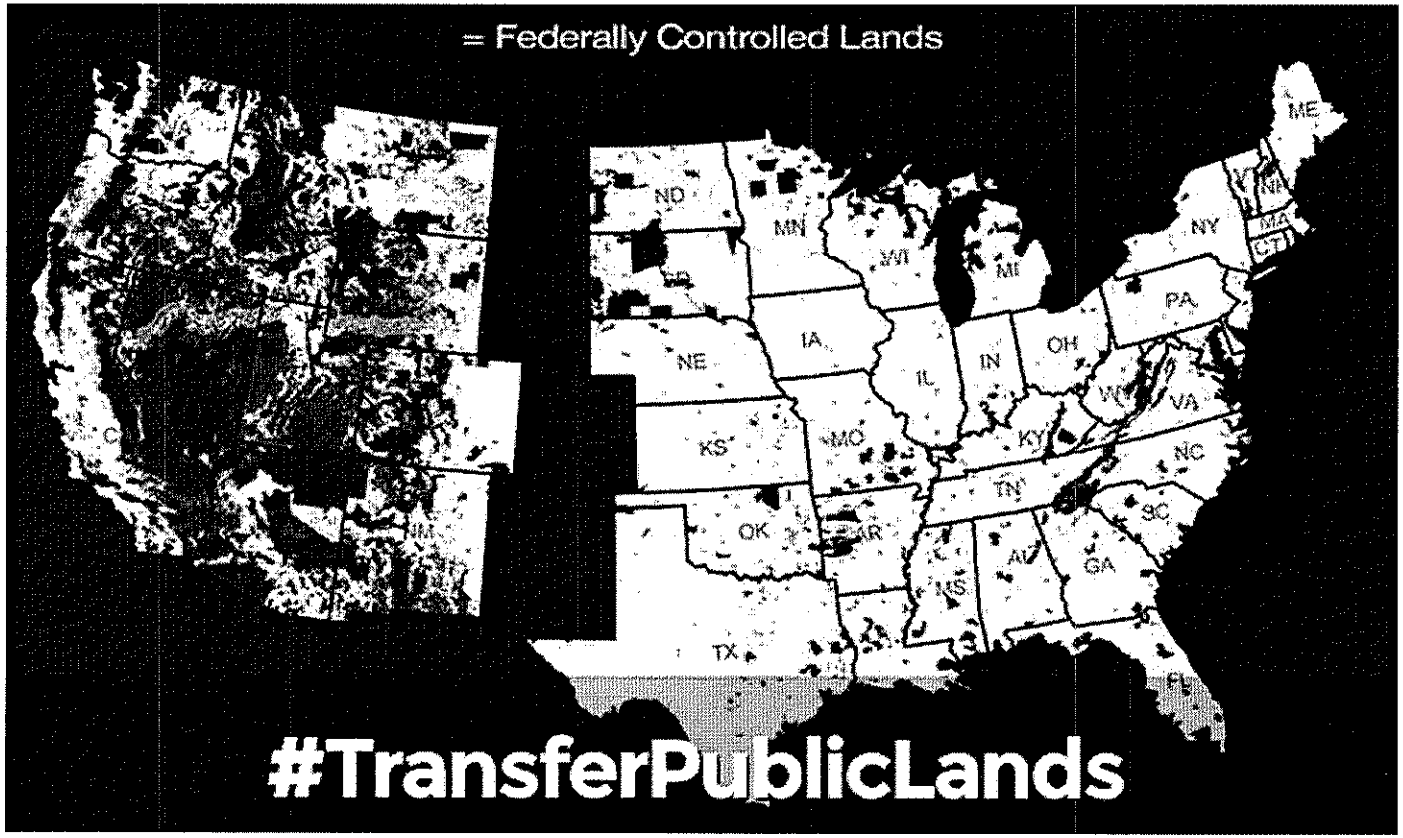
- The Antiquities Act gives a President unilateral authority to designate a national monument (no vote).
- The preliminary Resource Management Plan ("RMP"), submitted with the national monument proclamation, is SUBJECT TO CHANGE AFTER the proclamation is signed (Washington DC "Black Box"). Changes to the RMP are based on the National Environmental Policy Act (NEPA) and other required studies (4+ years) which establish land use rules and protocols
- How can the KSB/Coalition develop the RMP if they don't know what the rules are? This is why they can't make ANY guarantees!



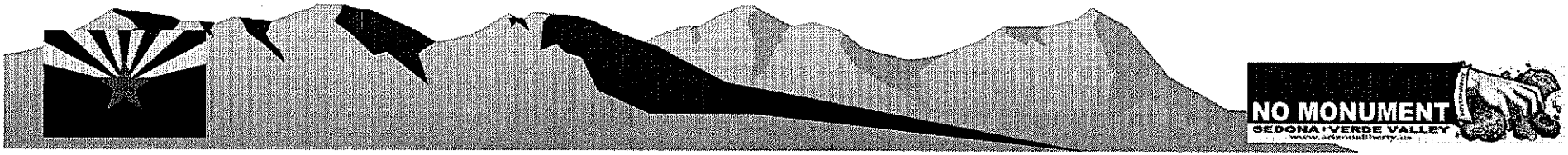
ACTUAL INCIDENTS

- Organ Pipe Cactus National Monument (Arizona)
  - Damaged due to UNRESTRICTED illegal immigration
- Constitutional power over public lands is WITHOUT LIMITATION
  - The U.S. Supreme and Appellate Courts have consistently ruled under the Property Clause of the U.S. Constitution (Art. IV, § 3, d. 2.) and the National Park Service Organic Act (16 U.S.C. § 1 - 1994)
- Federal Agencies may use the Property Clause, and their enabling statutes, to protect public lands from extra-territorial threats, i.e. property bordering federal lands
  - U.S. v. Brown, 552 F.2d 817,817 (8th Cir. 1977) In the Brown case, the Court ruled that the Property Clause is broad enough to reach beyond territorial limits.

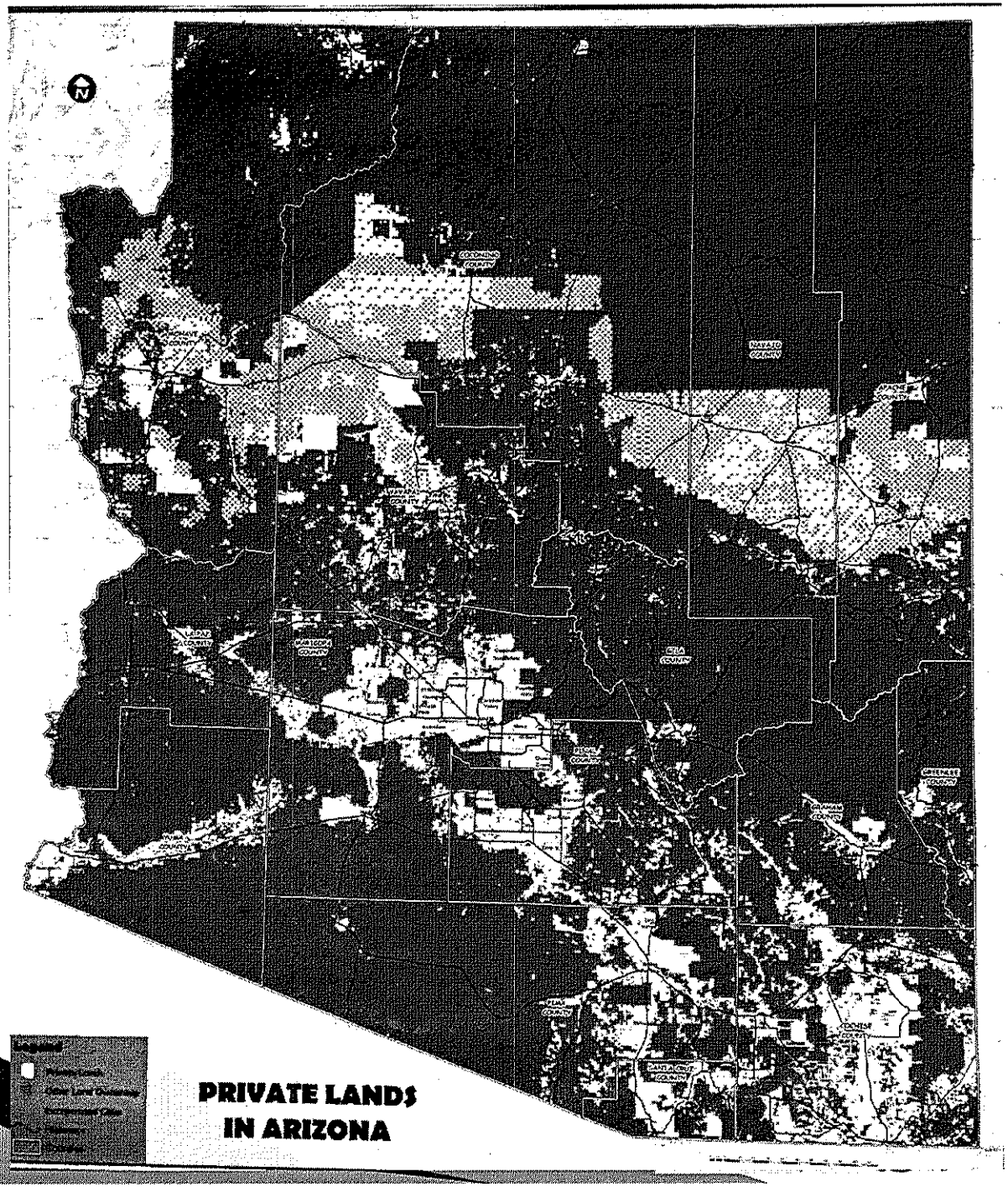
Western States – Low Property Taxes



Payment in Lieu of Taxes (PLIT) from the Federal Government averages $.62/acre.
Private property and state lands generate average $50/acre.



RED = Government
Federal + Some State
WHITE = Private



PRIVATE LANDS IN ARIZONA

Reservations

National Park

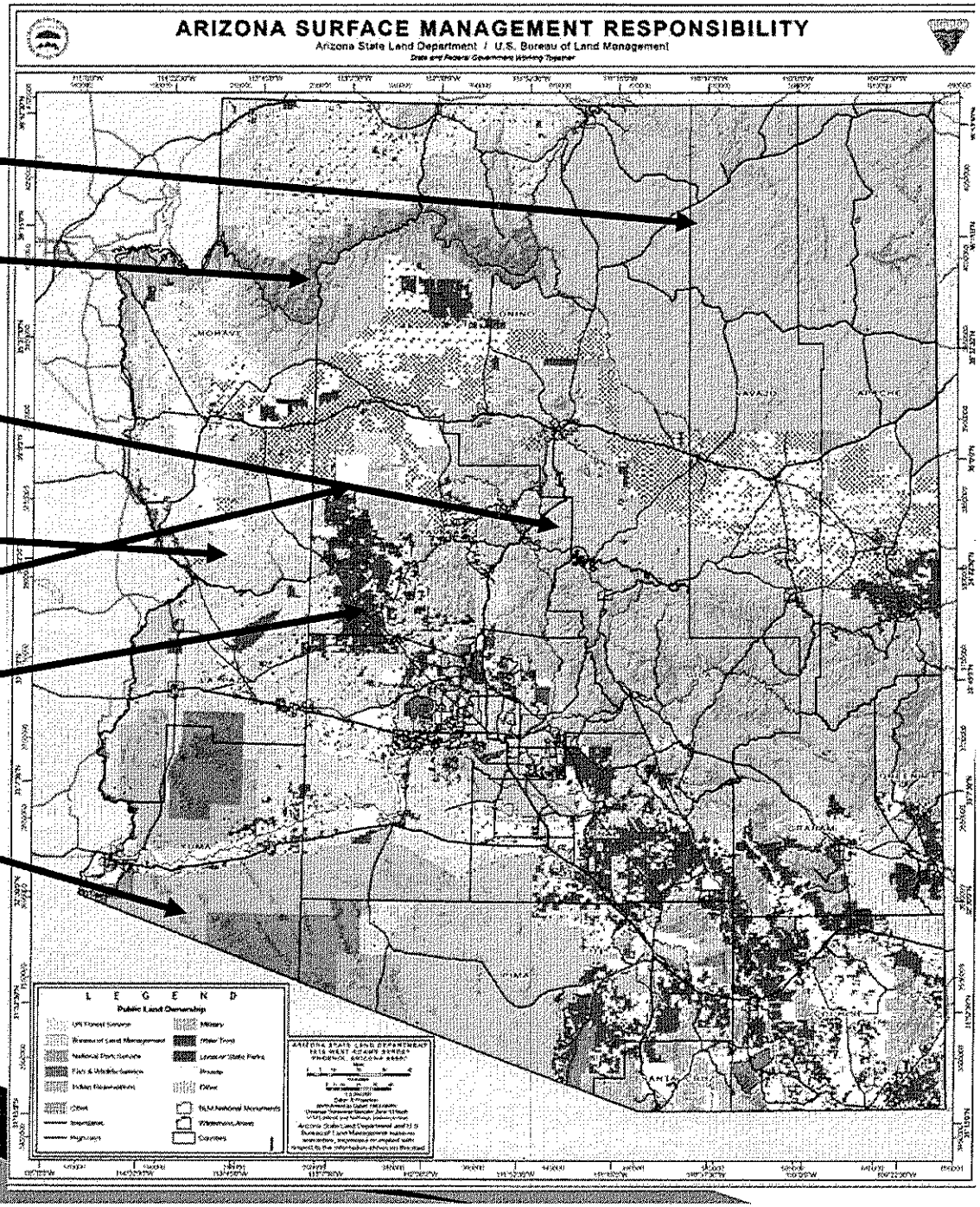
National Forest/
Wilderness Areas

BLM

Private

State Trust

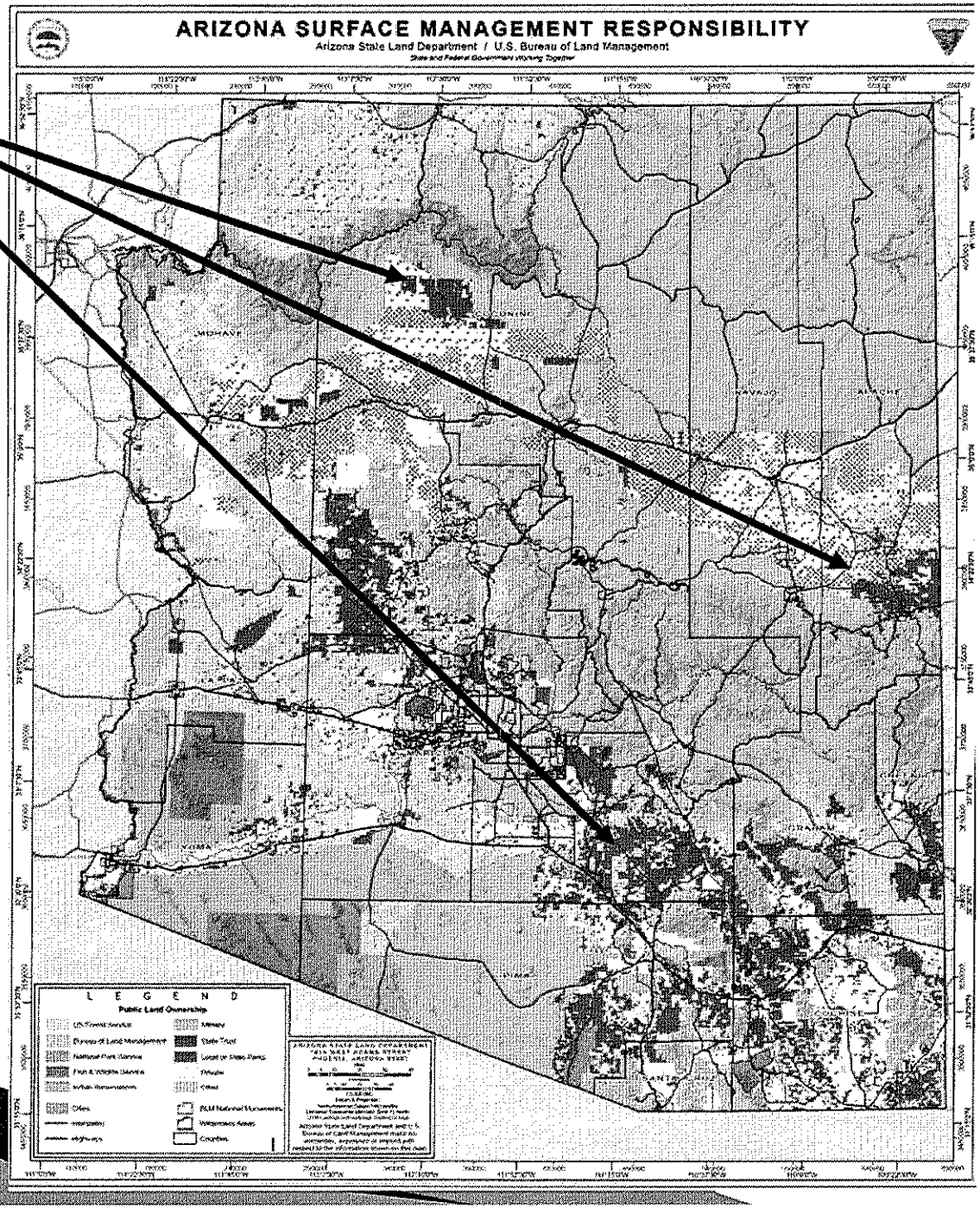
Military



State Trust Lands

TODAY, Arizona manages STATE TRUST LANDS for the benefit of our educational system. Selling any parcel over 200 acres is DIFFICULT and is counter-productive to having an asset generating *recurring* revenue.

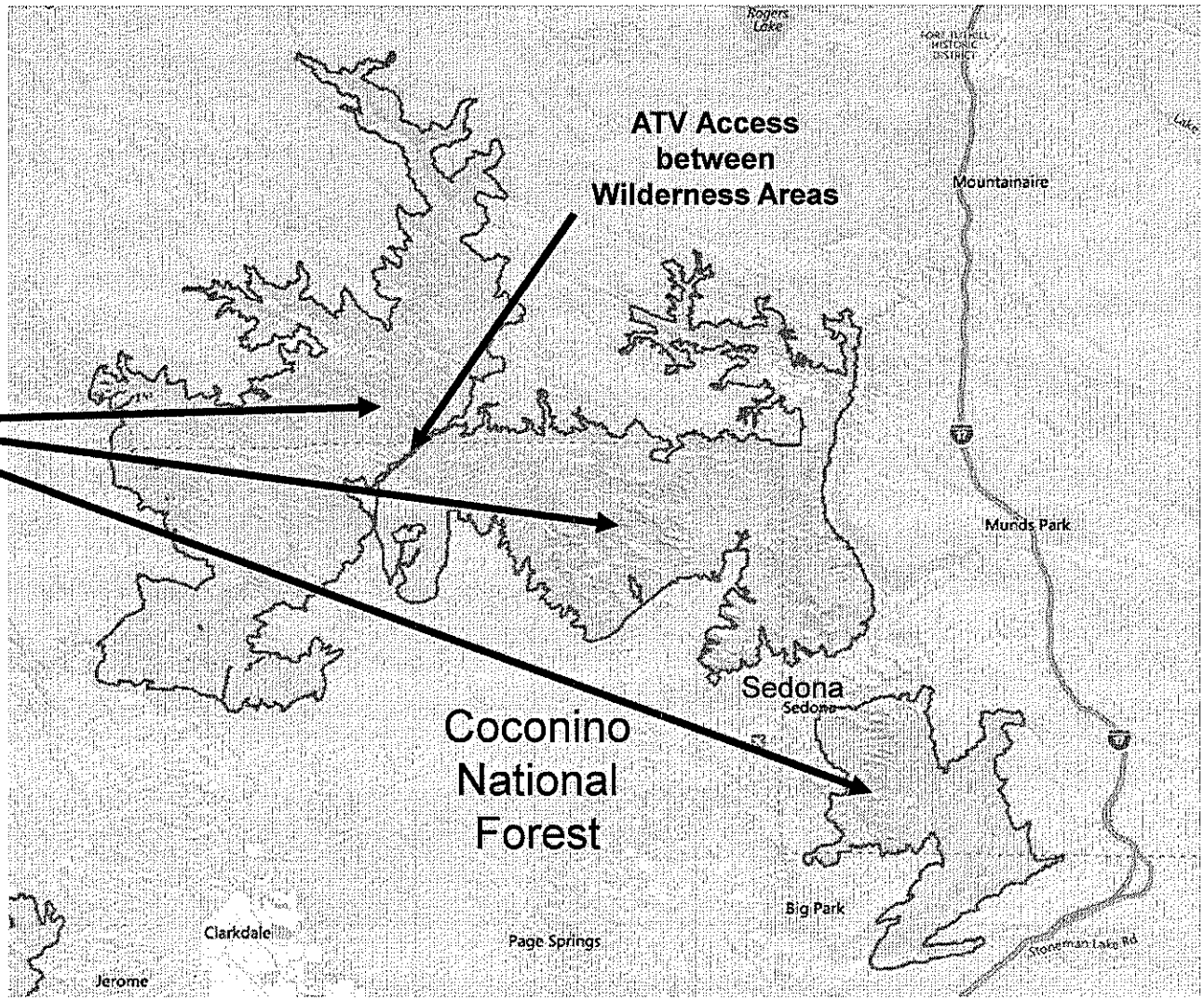
The State's ability to manage additional land for recreation, safety, wildlife, culture, heritage and *REVENUE* is CRITCAL for the financial security and well being of our Arizona residents.



Sedona, Village of Oak Creek and Verde Valley

Coconino National Forest + Wilderness Areas

Why add increased rules and regulations that tasks our USFS personnel when money promised in OTHER National Monuments has NOT been forthcoming?

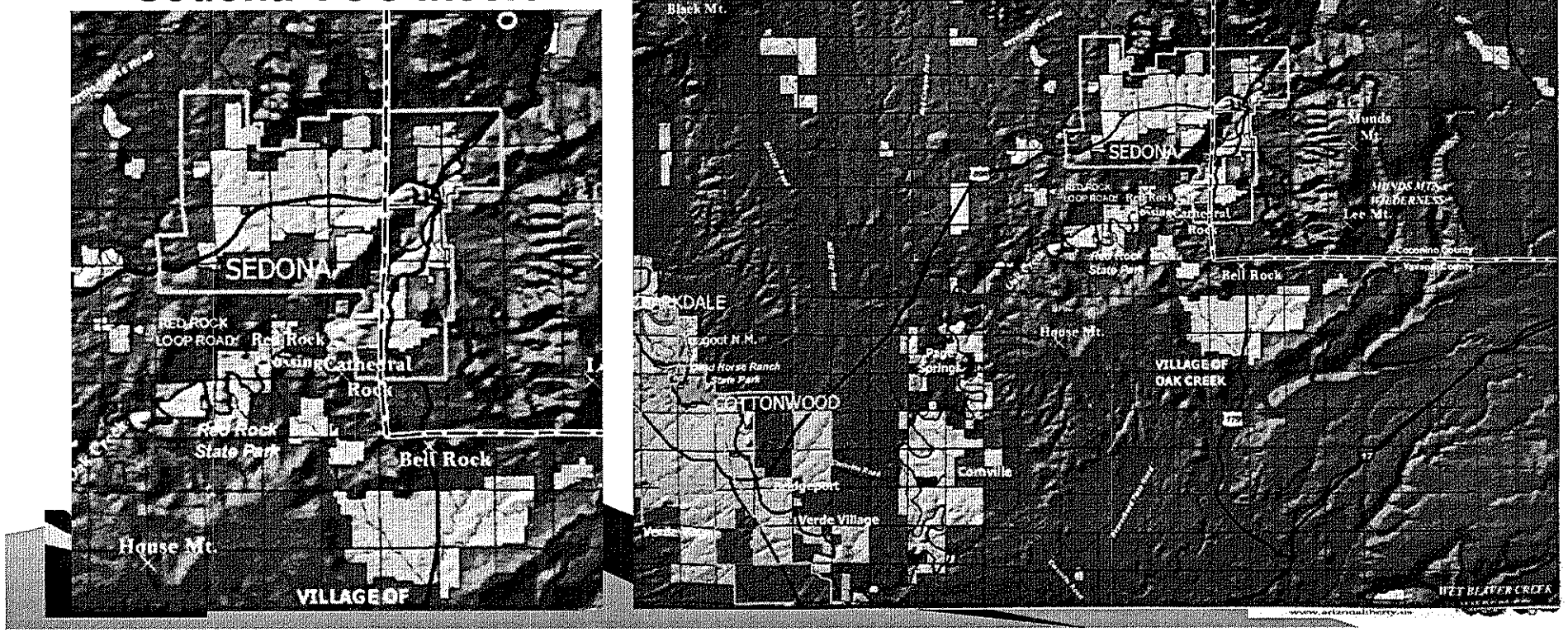


NO MONUMENT
SEDONA | VERDE VALLEY

Amendment 12 to Coconino National Forest Management Plan

The proposed national monument includes 80,000 acres of WILDERNESS AREA – the highest protection available!

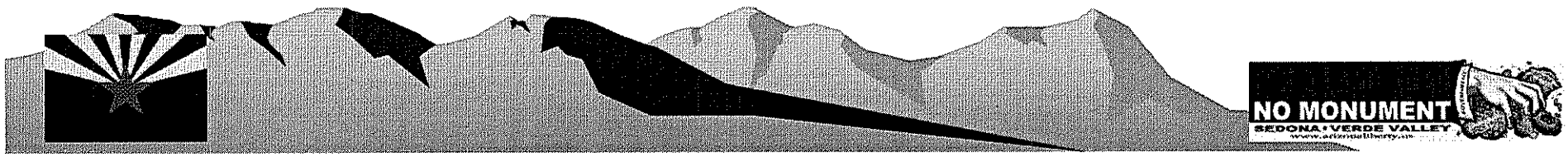
Sedona-VOC Insert



Designation under 1906 Antiquities Act

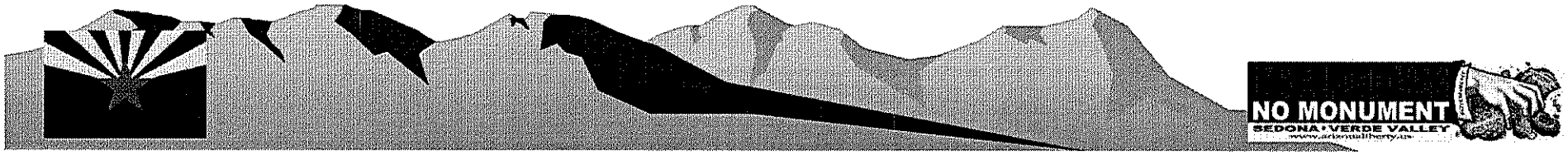
- Created by an executive order or by Congress
- Disenfranchises local and state stakeholders
- Does not value local input to the process
- Undermines extensive prior collaboration
- Ignores state officials' and agencies' input
- Undermines public support for existing management
- Ignores future mandated NEPA & Section 7 Analysis

OUR COCONINO NATIONAL FOREST IS ALREADY A MODEL OF A WELL - MANAGED AREA



National Monument Designation: A Solution Looking for a Problem

- Good relationship with the Forest Service/Red Rock Ranger District
- Local archeological cataloguing and researching antiquity sites always in progress
- Many local volunteers assisting in trail maintenance, site clean up, security, docents and other assistance
- Larger antiquity sites could be added to existing national monument sites (Tuzigoot or Montezuma Castle) without encompassing an additional160,000 acres

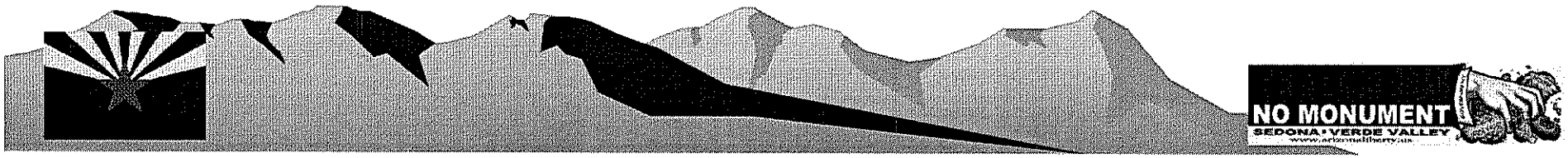


How Our Citizens Voted

Red Rock News Poll: 83% Against, 13% For, 4% Other

Preliminary Data As of 09/21/15*	Arizona Liberty (Against)	United Citizens (Against)	Eliminated Duplicates (Against)	Total (Against)	KSB (For)
	8/25 Start Date	8/20 Start Date	←	→	6/20 Start Date
Sedona	914	288	(79)	**1,123**	**1,631**
Verde Valley	341	105	0	**446**	**333**
Subtotal	1,255	393	(79)	**1,569**	**1,964**
Other Arizona	346	65	0	**411**	**1,168**
Outside Arizona	175	86	0	**261**	**1,425**
Grand Total	1,776	544	(79)	**2,231**	**4,577**

* Data from United Citizens and KSB petitions was collected from lists posted on public websites



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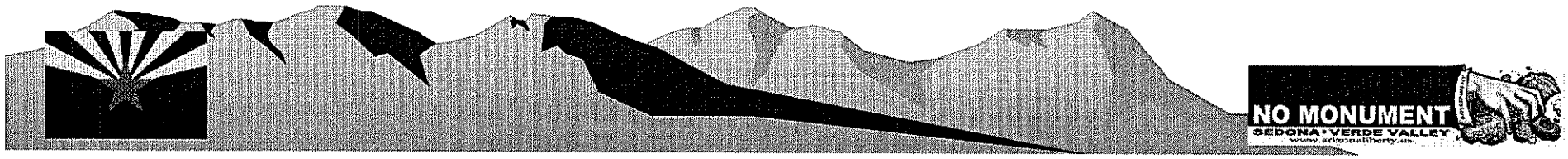
	8/25 Start Date	8/20 Start Date	←	→	6/20 Start Date
Sedona	49%	53%	(100)%	**50%**	**36%**
Verde Valley	20%	19%		**20%**	**7%**
Subtotal	69%	72%	(100)%	**70%**	**43%**
Other Arizona	21%	12%		**18%**	**26%**
Outside Arizona	10%	16%		**12%**	**31%**
Grand Total	100%	100%	(100)%	**100%**	**100%**

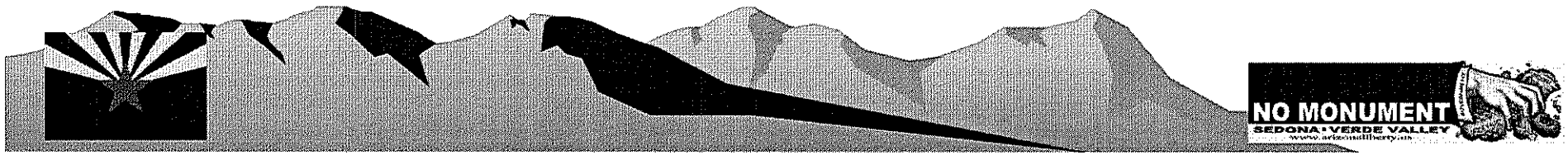
* Data from United Citizens and KSB petitions was collected from lists posted on public websites



Sedona Must Not Be An Experiment

Our community can BUILD ON these things that WE already do well, which are FAR and ABOVE what other communities do with their US Forest Service partners

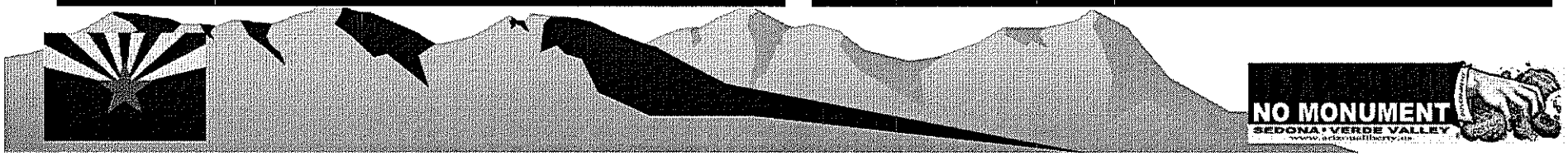
We want to work with local residents, continue to ASSIST and EXPAND the communities' current relationships. We do not to "EXPERIMENT" with something that has NEVER been tried before, making an ENTIRE CITY an "INHOLDER" subject to all the restrictions that apply under the Constitutional Property Clause.



The Future

- What gives KSB the right to take the freedom that we enjoy today from future residents on this beautiful land we call home?
- The balance between our land, our people, and our state in 2030, 2050, 2070 and beyond… CANNOT be "locked" up by bureaucrats 2000 miles away.
- The STATES were created because NOBODY knows better than the STATES what works in our own back yard.

- Monuments – Good for the public? Good for the citizens living IN or NEXT to a Monument?
  - Grand Staircase Escalante, UT
  - Basin & Range, NV
  - Organ Mountain Desert Peaks, NM
  - San Gabriel Mountains, CA
  - Little Bighorn Battlefield - 24 YRS
  - **NOT SO MUCH!**
- We must LEARN from the mistakes of others?
- It is NOT our job to sacrifice OUR way of life – the reason we MOVED here or grew up here when WE as a community have supported AND continue to support our local rangers and archeologists in the protection and management of this VERY special place.



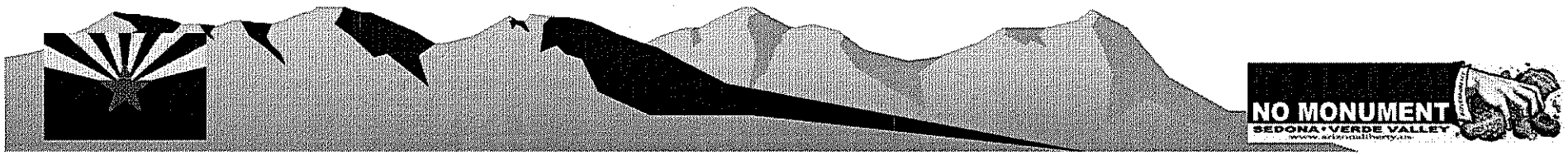
We Must Not Be An Experiment

A national monument ENCOMPASING Sedona and Village of Oak Creek is an experiment.

NO THANK YOU!

The Verde Valley is innovative and unique in our structure and how we interact with our environment in cooperation with our State and Federal Agencies.

It's time for us to expand and fine tune our existing relationships for the benefit of all 80,000 residents in the Verde Valley.



No Support!

Sedona Verde Valley Realtor Board (09/21/15)

- 10 - 0 vote to oppose

Big Park Regional Council (10/08/15)

- 16 - 6 vote to rescind

Sedona City Council (10/13/15)

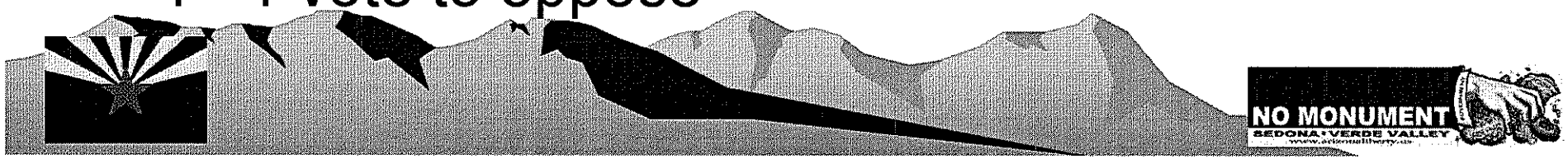
- 6 - 1 vote to oppose

Red Rock News Poll (10/14/15)

- 7 - 1 vote to oppose

Verde Independent Poll (10/16/15)

- 4 - 1 vote to oppose



No Support!

Yavapai County Supervisors

- Will not support

Local Outfitter Guide Businesses

- Will not support

Sedona Chamber of Commerce

- Will not take a position

Verde Valley Archeological Center

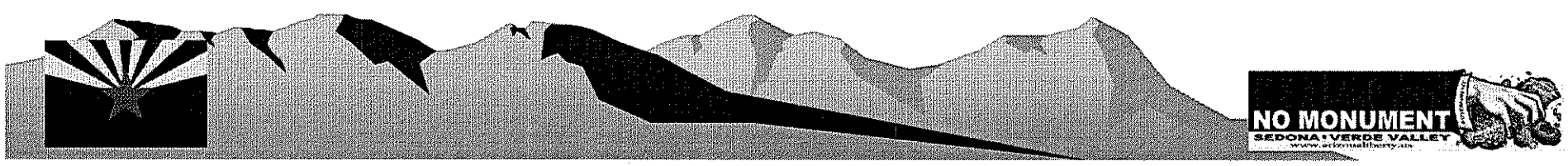
- Will not take a position

Petition Signatures Against

- 75% Local and 25% Tourist

No Support!

- 2012 Arizona Game & Fish Resolution
  - Opposes any national monument designation
- Issues in designated lands:
  - Delayed projects
  - Increased costs
  - Increased man-hours
  - Legal challenges
  - Decreased efficiency



No Support!

J. J. posted on Sedona.Biz: (October 9, 2015 @ 11:07 am)

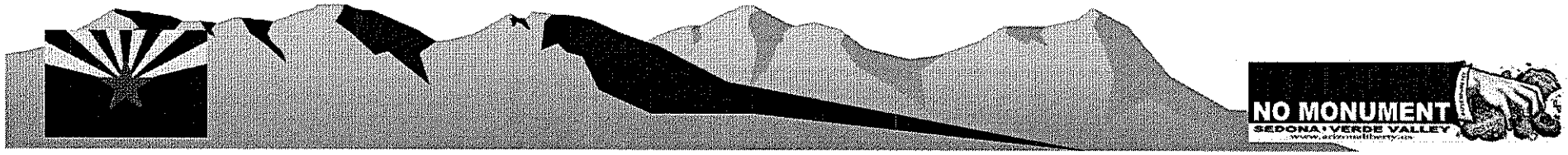
> I just got a call from our **AZ Representative Ann Kirkpatrick**. (phone number 202-226-9928). **She "will not be going forward with the Sedona Verde Valley National Monument."**

P. Pavlich posted on FaceBook: (October 9, 2015 @ 5:14 pm)

> I just got off the phone with Christian Walker who works in **U.S. Representative Ann Kirkpatrick's** office (202-225-3361). I strongly encourage you to call the office to hear for yourself what he told me. **Currently, the congresswoman has no plans to push for national monument designation. He also expressed that Representative Kirkpatrick was aware of the divisiveness and controversy swirling locally**.

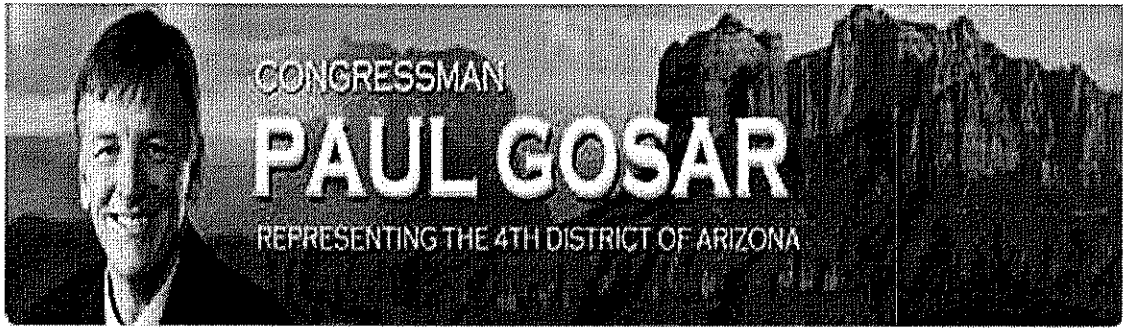
J. J. posted on SedonaEye: (October 10, 2015 @ 8:40 am)

> When I received a call from **Rep Ann Kirkpatrick**, this investigation was mentioned. **For Kirkpatrick, the SRRVVNM is a political hot potato and she's no longer on board**



BREAKING NEWS

Arizona Congressman Responds to Arizona Liberty on Kaibab Monument Issue



Protecting Local Communities Term Executive Overreach Act

[illegible]

NO MONUMENT
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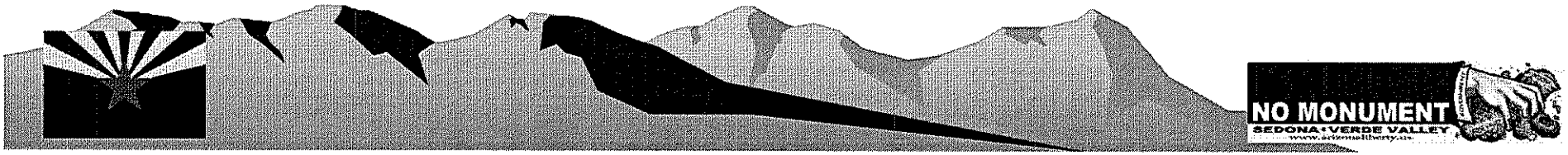
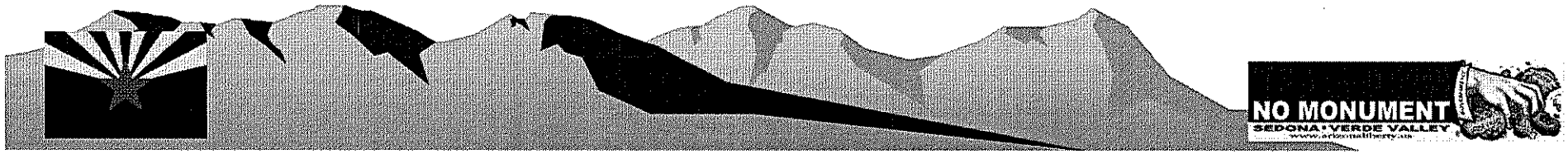
ARIZONA LIBERTY AND ITS SUPPORTERS WOULD LIKE TO THANK YOU FOR THE OPPORTUNITY TO SHARE ITS RESEARCH

WWW.ARIZONALIBERTY.US

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ARIZONA STATE LEGISLATURE

Fifty-second Legislature - Second Regular Session

COMMITTEE ATTENDANCE RECORD

COMMITTEE ON **FEDERALISM AND STATES' RIGHTS**

CHAIRMAN: Kelly Townsend VICE-CHAIRMAN: Noel W. Campbell

DATE	1/20 /16	/16	/16	/16	/16
CONVENED	9:01 AM	m	m	m	m
RECESSED					
RECONVENED					
ADJOURNED	11:10 AM				
MEMBERS					
Mr. Finchem	✓				
Mr. Mitchell	✓				
Ms. Rios					
Mr. Thorpe	✓				
Ms. Velasquez					
Mr. Wheeler					
Mr. Campbell, Vice-Chairman	✓				
Ms. Townsend, Chairman	✓				

√ Present --- Absent exc Excused

Attachment 4