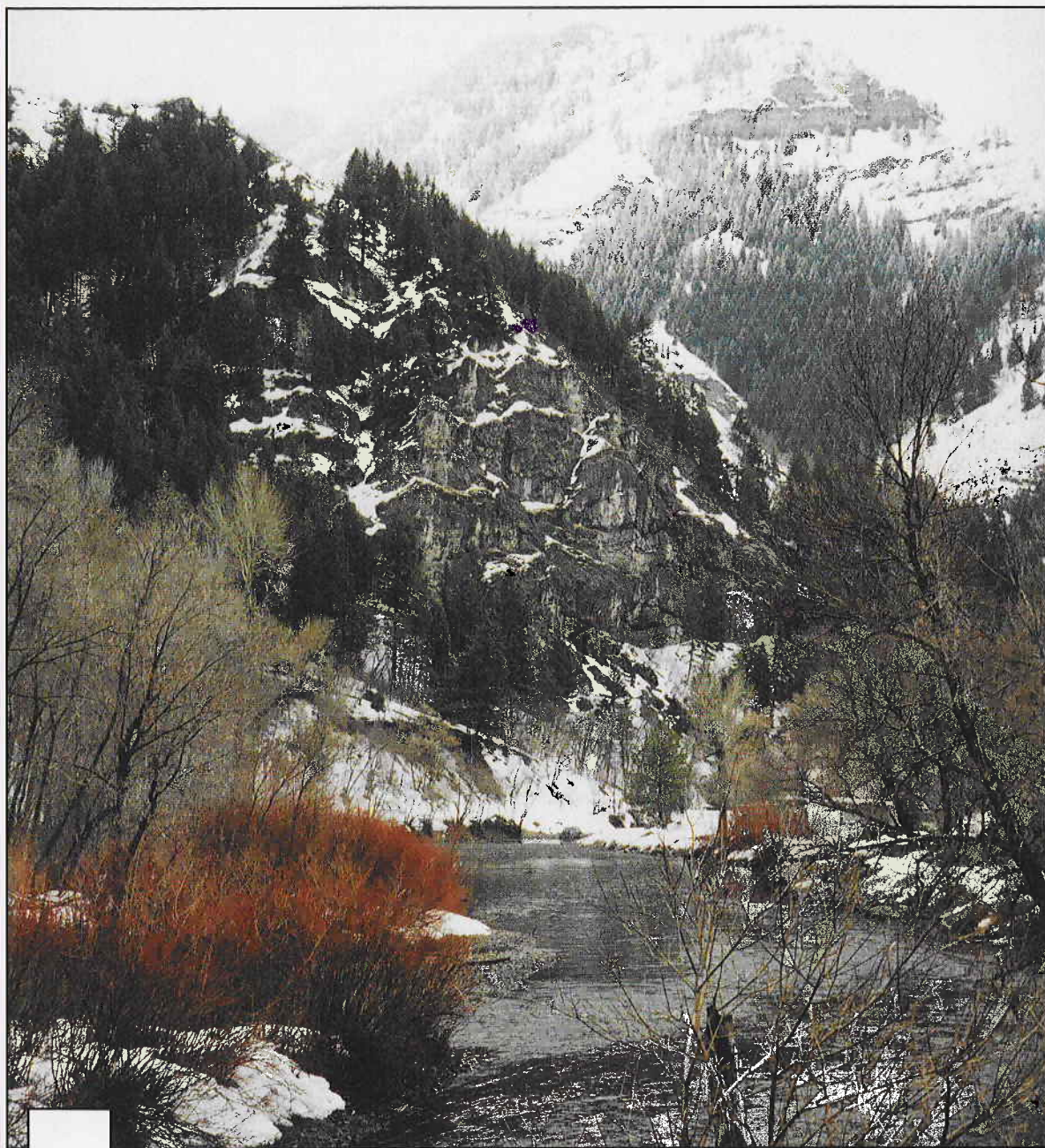


UTAH BAR JOURNAL

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COVER: Fresh Snowfall in Spanish Fork, by Bret B. Hicken, Spanish Fork, Utah.

Members of the Utah Bar who are interested in having photographs they have taken of Utah scenes published on the cover of the *Utah Bar Journal* should contact Randall L. Romrell, Randle, Deamer, Zarr, Romrell & Lee, P.C., 139 East South Temple, Suite 330, Salt Lake City, UT, 84111-1169, 531-0441. Send a slide, transparency or print of each scene you want to be considered.

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LETTERS

Dear Editor:

Since when has the *Journal* been so lacking in articles of informative value that you would find it suitable to print such a political diatribe such as Mr. Pendley's in the October, 1997 issue? I have never observed anything close to such a partisan display, and do not believe the same – on either side of the political spectrum – belongs in a professional publication (especially one written by an out-of-state stooge for Utah's congressional delegation and right-wing minions).

Notwithstanding my own disagreement with the tone of the article, it was not well written, and not to be saved by its exorbitant length and superfluous attribution references. Since the grim Mr. Pendley's unscholarly opinion does not have the support of the majority of the citizenry, as polls have clearly indicated, and cannot be taken as a serious analysis of the validity of the designation of the monument because of the author's blatant bias, why should the *Journal's* longstanding tradition of non-political legal commentary be broken by such a bag of hot air as this?

Sincerely,
Scott C. Welling

Dear *Utah State Bar Journal* Staff:

The article by William Perry in the latest *Bar Journal* was nothing more than a disingenuous political argument based on flawed information. I'm troubled my dues were wasted on the publication of such material. Please remove my name from the mailing list for your publication.

I'd suggest next time you have space to fill you include a few pages from the phone book. At least the content would be accurate.

Sincerely,
T. Scott Groene
Southern Utah Wilderness Alliance

Editor:

William Perry Pendley's diatribe against the Grand Staircase-Escalante National Monument and President Clinton (October, 1997) is better-suited for a weekly tabloid than a bar journal. Pendley's legal analysis is sophomoric; his factual analysis nonexistent. Obviously, Pendley has an ax to grind with the Clinton administration and those he derides as "environmental extremists." Why the *Bar Journal* considered his

editorial worthy of publication I cannot fathom. Rather than well-reasoned legal analysis or even insightful political commentary, we are treated to tired assertions, popular with the extreme right by lacking completely in any documented factual support, that the Monument was created at the behest of the Lippo corporation. What next for the *Utah Bar Journal*? Will we be enthralled by tales of Hillary-ordered assassinations and gossip concerning Bill's extramarital affairs?

As a lawyer practicing environmental law who has lived and worked in southern Utah, I had hoped the *Bar Journal* would approach the controversial issue of the proper use of southern Utah's public lands in a well-reasoned and fair-minded manner. I am extremely disappointed that the *Bar Journal* chose to publish such a slanted, ideology-driven article. Unfortunately, the editors of the *Utah Bar Journal* appear incapable of distinguishing legal writing from extremist dogma. The *Bar Journal* has lost my respect; in my opinion, it has forfeited its standing as a professional publication worthy of any serious consideration.

Sincerely,
David Negri

Mr. Pendley responds:

Mr. Negri wants the *Bar Journal* to discuss "the proper use of southern Utah's public lands." That might be an interesting discussion, but it was foreclosed by Clinton's decree.

The only issue left is whether Clinton's decree is legal? I concluded it is not. Using the legal analysis I used – Mr. Negri calls it "sophomoric" – the Utah School and Institutional Trust Lands Administration and the Utah Association of Counties agreed with me and sued Clinton.

The Constitution gives power over federal lands to Congress. Congress delegated some of that power in the Antiquities Act; how much has not been answered. Congress rejected the notion that it had acquiesced in the expansive use of the Antiquities Act when it passed the Federal Land Policy and Management Act. Finally, if Congress grants too much of its power it violates the Delegation Doctrine. If Mr. Negri doesn't like my analysis, he should read nothing else on the subject; most other scholars have reached similar conclusions.

Mr. Negri calls my "factual analysis nonexistent." Clinton is to blame since he refuses to release White House decision documents to give us the "facts." The House Resources Committee had to issue a subpoena to get them. Just days ago, Chairman Don Young wrote demanding "immediate" compliance with the subpoena.

Senator Bob Bennett (R-UT), after viewing White House documents, says "I'm satisfied that the primary motivation in creating the monument was politics." (Does that include fundraising? No one knows, certainly not Mr. Negri!)

Mr. Negri says that quoting Senator Bennett and others on the reasons for the Clinton decree makes me part of "the extreme right" and a writer of "extremist dogma." When it comes to choosing sides in a truth telling contest, I will gladly stand with Senator Bennett and allow Mr. Negri to defend Clinton.

Sincerely yours,
William Perry Pendley

Editors Note:

All letter writers were invited to respond substantively to Mr. Pendley's article; Mr. Negri agreed – his response, in article form, is included in this issue.

Interested in Writing an Article for the *Bar Journal*?

The editor of the *Utah Bar Journal* wants to hear about the topics and issues readers think should be covered in the magazine.

If you have an article idea or would be interested in writing on a particular topic, contact the editor at 566-6633 or write, *Utah Bar Journal*, 645 South 200 East, Salt Lake City, Utah 84111.

Letters Submission Guidelines:

1. Letters shall be typewritten, double spaced, signed by the author and shall not exceed 300 words in length.

2. No one person shall have more than one letter to the editor published every six months.

3. All letters submitted for publication shall be addressed to Editor, Utah Bar Journal and shall be delivered to the office of the Utah State Bar at least six weeks prior to publication.

4. Letters shall be published in the order in which they are received for each publication period, except that priority shall be given to the publication of letters which reflect contrasting or opposing viewpoints on the same subject.

5. No letter shall be published which (a) contains defamatory or obscene material, (b) violates the Code of Professional Conduct, (c) is deemed execrable, calumnious, obliquitous or lacking in good taste, or (d) otherwise may subject the Utah State Bar, the Board of Commissioners or any

employee of the Utah State Bar to civil or criminal liability.

6. No letter shall be published which advocates or opposes a particular candidacy for a political or judicial office or which contains a solicitation or advertisement for a commercial or business purpose.

7. Except as otherwise expressly set forth herein, the acceptance for publication of letters to the editor shall be made without regard to the identity of the author. Letters accepted for publication shall not be edited or condensed by the Utah State Bar, other than as may be necessary to meet these guidelines.

8. The Editor, or his or her designee, shall promptly notify the author of each letter if and when a letter is rejected.



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