

Ten Treasures at Stake







New Mining Claims Plus an Old Law
Put National Parks and Forests at Risk

Key to Map


Turn this flap over for the key to the maps inside. >

Map Legend

Use this legend to read the maps on pages 6 through 24.

-  All Agencies Wild and Scenic River (WSR)
-  Streams and Rivers
-  Roads
-  BLM Active Mining Claims (1872–2010)

FEATURES

-  Lake, Reservoir, Canal, Estuary and Ocean
-  BLM National Recreation Area
-  BLM Area of Critical Environmental Concern
-  BLM Wilderness Study Area
-  BLM Other Administrative Area
-  USFS Inventoried Roadless Area (IRA)
-  USFS National Recreation Area
-  USFS Wilderness
-  USFS National Forest
-  NPS National Preserve
-  NPS Wilderness Study Area
-  NPS National Recreation Area
-  NPS Wilderness
-  NPS National Monument/Memorial
-  NPS National Park
-  BIA Native American Lands

ABBREVIATIONS

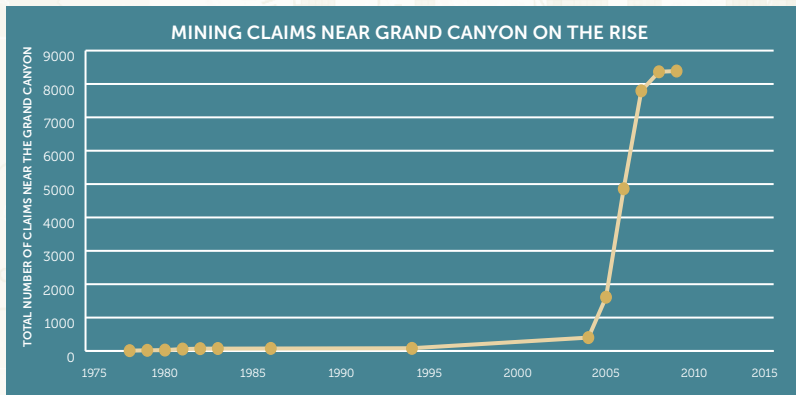
- BLM Bureau of Land Management
- USFS U.S. Forest Service
- NPS National Park Service
- BIA Bureau of Indian Affairs

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Ten Treasures at Stake

As the Obama administration develops its final proposal to protect the Grand Canyon from hardrock mining, other national parks, monuments, forests and historic sites are also under threat from thousands



of mining claims, many of them staked during the past five years. These incomparable places could be at risk because of the outdated 1872 Mining Law that puts prospecting ahead of other activities on most of America's public lands.

The Pew Environment Group, using data from the Interior Department's Bureau of Land Management

(BLM),¹ has identified 10 national parks, Wilderness Study Areas and historic and cultural sites that are the target of new claims to mine gold, uranium and other hardrock minerals. The list includes five national parks—Grand Canyon, Yosemite, Arches, Canyonlands and Joshua Tree—and one of America's most fabled monuments to democracy, Mount Rushmore.

Mining claims in and around these sites and thousands more on other public lands can be legally staked under the 1872 Mining Law. Congress has repeatedly and unsuccessfully attempted to modernize this statute, despite the fact that even industry experts say it should be updated. But until the law is brought up-to-date, few good options exist for protecting such places as the Grand Canyon from hardrock mining, except for a time-limited "withdrawal process,"² which the Obama administration is currently considering.

This report provides 10 examples of the lands at risk if Congress and the administration fail to act.

THE 1872 MINING LAW

Staking claims adjacent to—or in some cases, within—national forests and other special places is allowed under the 1872 Mining Law, which was signed by President Ulysses S. Grant to encourage development of the frontier. Although similar policies to encourage homesteading, railroad construction and other activities in the West were

updated long ago, the 19th-century incentives to mine remain on the books virtually unchanged. The law puts the mining of gold, uranium and other hardrock minerals ahead of all other uses on as much as 350 million acres³ of federal land in the West.

PRIORITY TREATMENT

This preferential treatment gives mining interests the legal right to take what the government estimates is at least \$1 billion worth of metals each year from publicly owned property⁴ without compensating taxpayers or paying a fair share of the cleanup costs for abandoned mines. The Environmental Protection Agency has found that hardrock mining releases more toxic pollutants than any other industry. And the EPA estimates that reclaiming abandoned and existing hardrock mines will cost up to \$50 billion.⁵

For decades, oil, gas and coal industries have been required to pay royalties to the U.S. Treasury on the resources they extract from federal land. Those royalties range from 8 to 18.75 percent.⁶ Since 1920, the coal industry has paid more than \$10 billion in federal royalties, including more than \$6 billion from 2001 through 2010.⁷ Federal royalties generated from oil and gas topped \$6 billion in fiscal 2009 alone, with additional monies from rents and bonuses bringing in another \$2.2 billion to the Treasury the same year.⁸

Under the mining law's "open access" policy, the mining industry is allowed to conduct large industrial operations and dump waste on millions of acres of public land regardless of conflicts with other public uses. Certainly, not all claims become full-fledged mines. But the industry has long argued that the law guarantees a right to mine that prevents public land managers from weighing the benefits and impacts of mining or considering objections from communities nearby or downstream. Once a claim is deemed valid, with discovery of a valuable mineral deposit, public land managers who want to protect a particular area from mining activity have few options.

Also undercut is the National Environmental Policy Act, the landmark law that requires federal agencies to determine the environmental effects of their decisions. Although reviews of other development projects that come under the act's provisions—including oil and gas drilling, coal mining, road building and dam construction—generally

give the option to deny or take “no action,” assessments of proposed hardrock mines generally do not include this choice.⁹ Thus, the public has little power to stop a project and has a say only in how environmental impacts might be mitigated.

As government data show, therefore, claims are being staked adjacent to national parks and monuments, inside national forest roadless areas, within Wilderness Study Areas, near Wild and Scenic Rivers and in federally recognized Areas of Critical Environmental Concern.

Recently, for example, Agriculture Secretary Tom Vilsack approved a dozen exploration plans for new hardrock mines in the undeveloped national forests of Nevada, Utah and Washington citing “supremacy” of the mining law over

the 2001 Roadless Area Conservation Rule that was issued to limit most commercial road building and industrial development in such areas.¹⁰

In contrast, oil and gas operations and coal mining are governed by the Mineral Leasing Act, which Congress passed in 1920 and has been updated frequently through legislative action. Common minerals, such as sand and gravel, are regulated under the Mineral Materials Act, which became law in 1947. Under both laws, the federal government retains title to the public land where the minerals are located and the authority to approve or deny operations after weighing public needs.¹¹ With hardrock mining, however, the law gives federal agencies little discretion to stop a valid claim from being developed even in the face of public opposition.

EXECUTIVE BRANCH WITHDRAWALS

Failure by Congress to reform the 1872 Mining Law has left few good options to prevent new mining operations on public lands that deserve protection, even if those operations jeopardize valuable fish and wildlife habitat, clean water and national parks such as the Grand Canyon.

The executive branch, however, has the authority under the Federal Land Policy and Management Act to protect special public landscapes by “withdrawing” them from the mining law, essentially placing them off-limits for staking

new mining claims. This authority limits withdrawals affecting 5,000 or more acres to renewable 20-year periods. Such a withdrawal also requires a detailed analysis of the withdrawal proposal and its potential impact. However, withdrawals of any size also are subject to “valid existing rights.” Accordingly, while they can prohibit new claims from being staked, withdrawals do not prevent the holder of a valid claim from mining a property—unless the government opts, as it has in some instances, to buy out the claimholder.

Through the years, withdrawals and withdrawal extensions have been used to protect national parks and other critical landscapes from new mining. This includes Yellowstone National Park,¹² Oregon's Coos Bay¹³ and New Mexico's Carlsbad Caverns National Park.¹⁴

A similar process is under way in the Grand Canyon, where the Interior Department is conducting an environmental impact statement on the withdrawal

proposal for approximately 1 million acres of national forest and BLM land adjacent to Grand Canyon National Park. If the withdrawal is finalized, the area would be off-limits to new mining claims for as long as 20 years.¹⁵ In 2009, Interior Secretary Ken Salazar used his withdrawal authority to temporarily stop new claims in the area after a British company had begun uranium exploration just outside park boundaries, pending more thorough study and public comment.¹⁶

TAXPAYER BUYBACKS

The inability of federal land managers to prevent mining on public lands has proved costly to the environment and U.S. taxpayers. The executive branch withdrawal process, though an important conservation tool, restricts only new claims. Accordingly, once a claim is staked and mineral "discovery" occurs, the federal government protects national parks and other special places primarily by buying back mining claims at taxpayer expense.¹⁷

The best-known of these buybacks involved the proposed New World Mine, just three miles from Yellowstone National Park. The operations plan for this gold mine included a waste impoundment the size of 70 football fields near park boundaries.¹⁸ Under the 1872 Mining Law, the government and public could do little to stop mining. Yellowstone was protected only after a \$65 million buyback and land-exchange package funded by taxpayers.

THE TEN TREASURES

Using BLM data, the Pew Environment Group compiled the following list of 10 national parks, Wilderness Study Areas and historic and cultural sites threatened by claims to mine gold, uranium and other hardrock minerals. Although not every claim in or around these special places

may ultimately be mined, some undoubtedly will be. And, until the 1872 law is reformed, more claims can be staked, increasing the chances that environmentally harmful and disruptive activity will occur in unique areas that deserve special protections.

COMMUNITY OPPOSITION IGNORED

The economy of Crested Butte, Colo., made the transition from mining's boom and bust to a thriving center for outdoor amenities and recreation. Yet local officials were ignored when the Bureau of Land Management, acting in 2004 under provisions of the 1872 Mining Law, sold miners a piece of Mount Emmons, affectionately known as Red Lady Mountain, for \$5 an acre.ⁱ Community protests were deemed irrelevant.ⁱⁱ

In 2008, an economic analysis of a proposed mine in the same area indicated that it could have a significantly negative impact. According to the study, nearly 40 percent of the area's jobs were tied to tourism,ⁱⁱⁱ and the Chamber of Commerce responded with calls to protect the community's amenity and knowledge-based economic sectors. "This report shows exactly why the 1872 Mining Law should not continue to prioritize mining above all other uses," said Dan Morse of the High Country Citizens' Alliance, a community group that had joined with the town to oppose the land sale.^{iv}



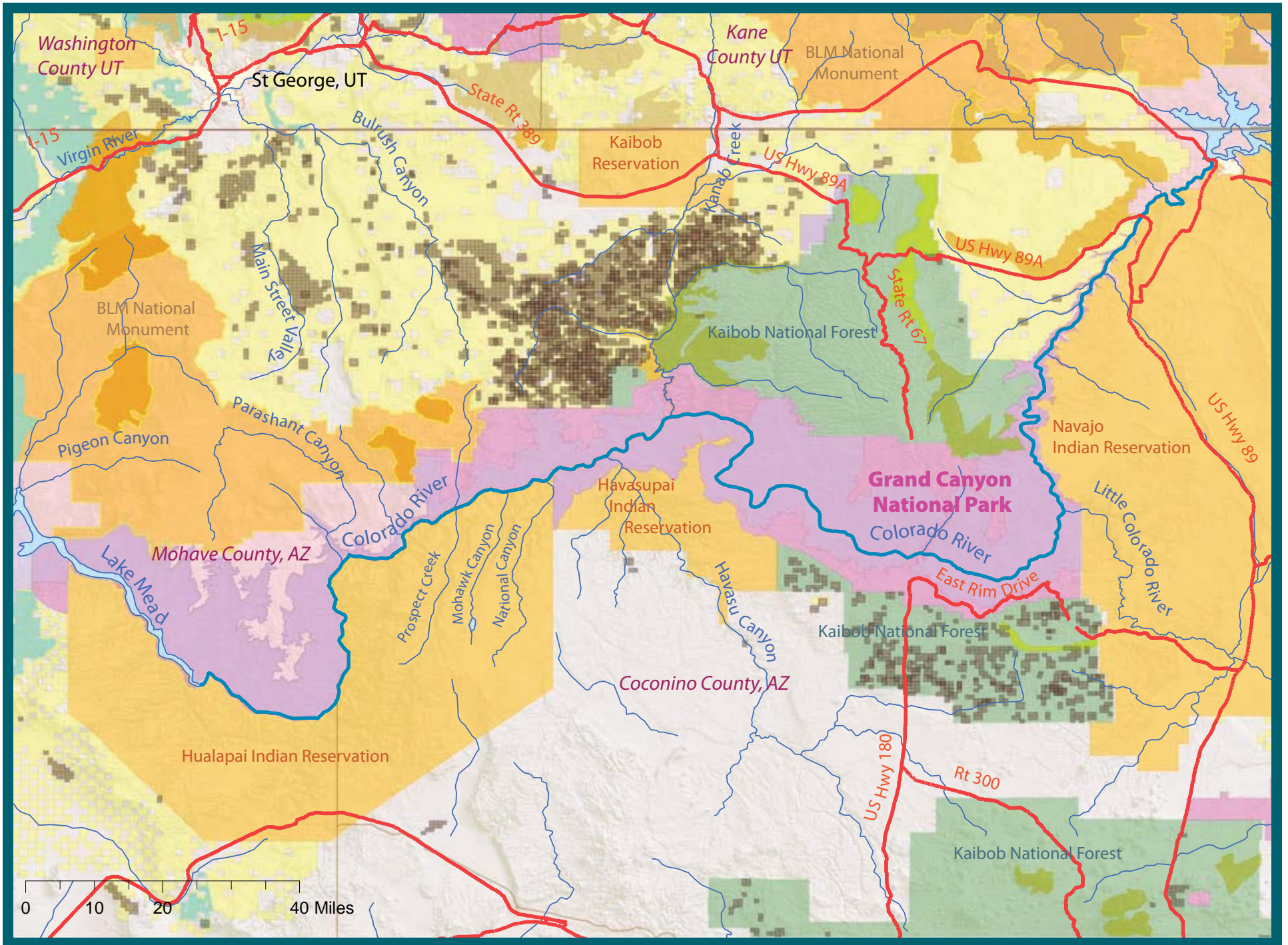
Crested Butte from Deer Creek Trail
Photo: TrailSource.com

i M. Jaffe, "Mountain: Metals or moguls?" *Denver Post*, Nov. 21, 2008, www.denverpost.com/breakingnews/ci_11037202.

ii J. Doane, "Town appeals to Senate to reform 1872 Mining Law," *Crested Butte News*, Jan. 23, 2008; Kohler, J., "Western communities rally to reform 1872 mining laws," *Indian Country News*, December 2007, http://indiancountrynews.net/index.php?option=com_content&task=view&id=2104&Itemid=116; and Bernholtz, A., guest editorial, "Taxpayers can't afford to wait for mining law reform," *New West Blog*, May 3, 2010, www.newwest.net/topic/article/taxpayers_cant_afford_to_wait_for_mining_law_reform/C559/L559.

iii Marlow, J.E., *Crested Butte's stake in mining reform*, Sonoran Institute, September 2008, www.hccaonline.org/pdf/CrestedButte%27s%20Stake%20in%20Mining%20Reform.pdf.

iv Reaman, M., "There's no reason to threaten a functioning economy..." *Crested Butte News*, Sept. 24, 2008, www.crestedbuttenews.com/index.php?option=com_content&task=view&id=863&Itemid=40.



See front cover flap for legend.

1 ARIZONA: GRAND CANYON NATIONAL PARK

Nearly 5 million people visit the Grand Canyon annually, heeding the advice of President Theodore Roosevelt to enjoy “one of the great sights, which every American . . . should see.” But while the canyon itself may be timeless, its surroundings are not. Within miles of the majestic rim, a race to acquire mining rights on public lands has quietly played out, threatening to mar the park’s setting and impact the water resources that support the seeps and springs so critical to the canyon’s unique ecosystem.

According to BLM data, there were fewer than 100 mining claims before 1995 in an area known for uranium deposits on the outskirts of Grand Canyon National Park.¹⁹ By 2004, as the price of uranium rose, that number more than tripled, with approximately 320 claims staked in a year. In 2006, a claim-staking frenzy hit the area, resulting in more than 3,200 new claims; and in 2007, when the price of uranium hit a 40-year high,²⁰ an additional 2,900 claims were staked.

In 2009, at the urging of conservation leaders in Congress,²¹ Secretary Salazar called a time-out on claim staking for roughly 1 million acres of BLM and national forest land surrounding the park. BLM is conducting a study to determine whether a longer-term withdrawal is warranted.²²



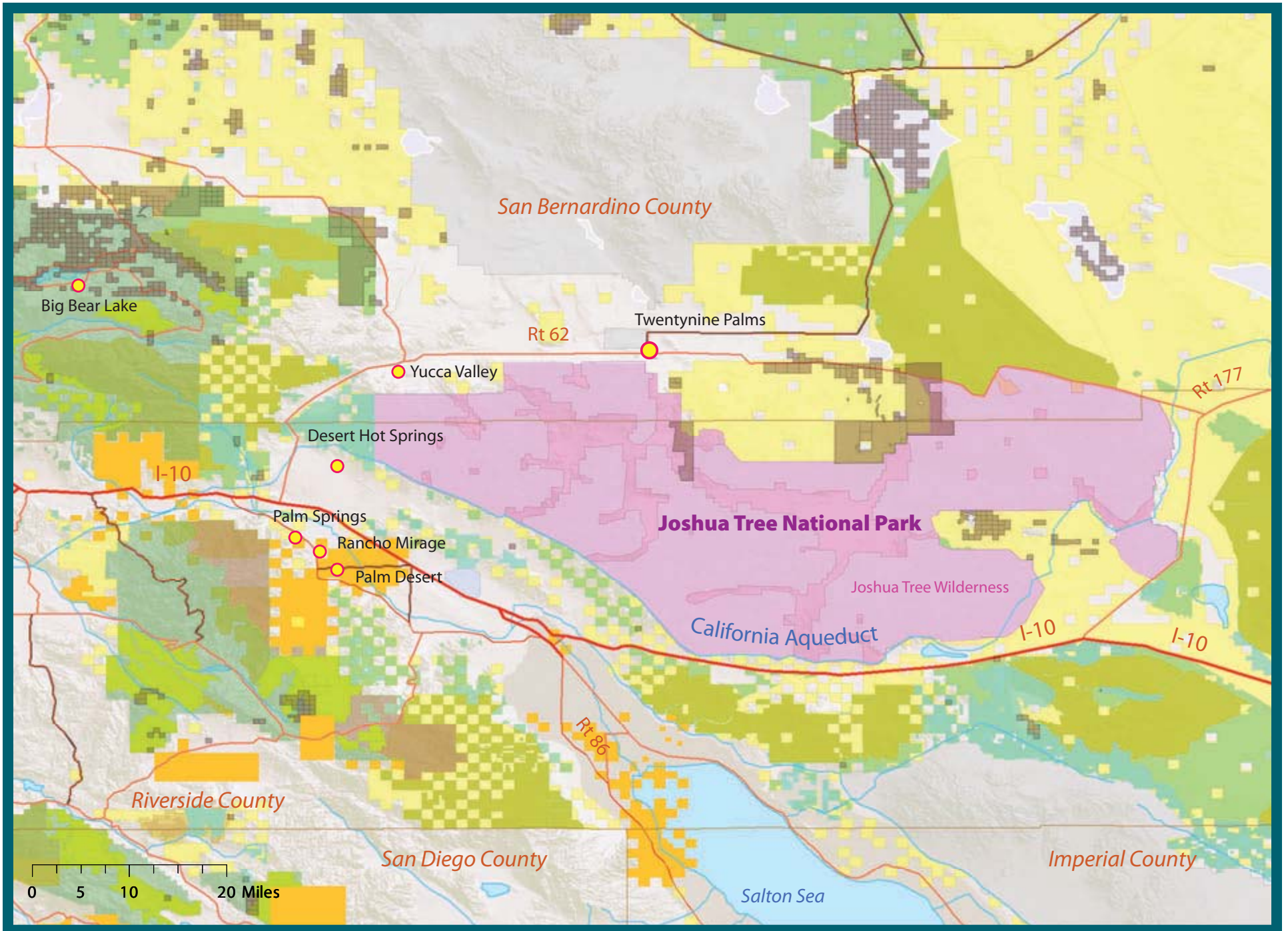
Grand Canyon shadows
Photo: National Park Service



Rainbow over the
Grand Canyon
Photo: National Park Service



Prehistoric granaries above Nankoweap in Marble Canyon
Photo: Mark Lellouch/National Park Service



See front cover flap for legend.

2 CALIFORNIA: JOSHUA TREE NATIONAL PARK

Stargazing, birding and backpacking are favorite activities at this California national park, which features the rare Joshua tree, named by 19th-century Mormon settlers for its resemblance to the biblical figure Joshua reaching to the sky in prayer. More than 18 million people live within a three-hour drive of the park, which encompasses a trio of unique ecosystems and consists largely of wilderness. Joshua Tree straddles the Pacific Flyway and is used as a rest stop by migratory birds. It also provides a haven for the desert tortoise, listed by the U.S. Fish and Wildlife Service as threatened.

According to BLM data, 275 active mining claims lie within five miles of Joshua Tree's borders. Of these, more than a quarter have been staked since 2005, most at the park's northern boundary.



California fan palms at the end of Lost Palms Oasis trail in Joshua Tree National Park
Photo: National Park Service



Beavertail cactus in bloom in Joshua Tree National Park
Photo: National Park Service



Yuccas and Joshua trees with Ryan Mountain in the background
Photo: National Park Service



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3 CALIFORNIA: YOSEMITE NATIONAL PARK

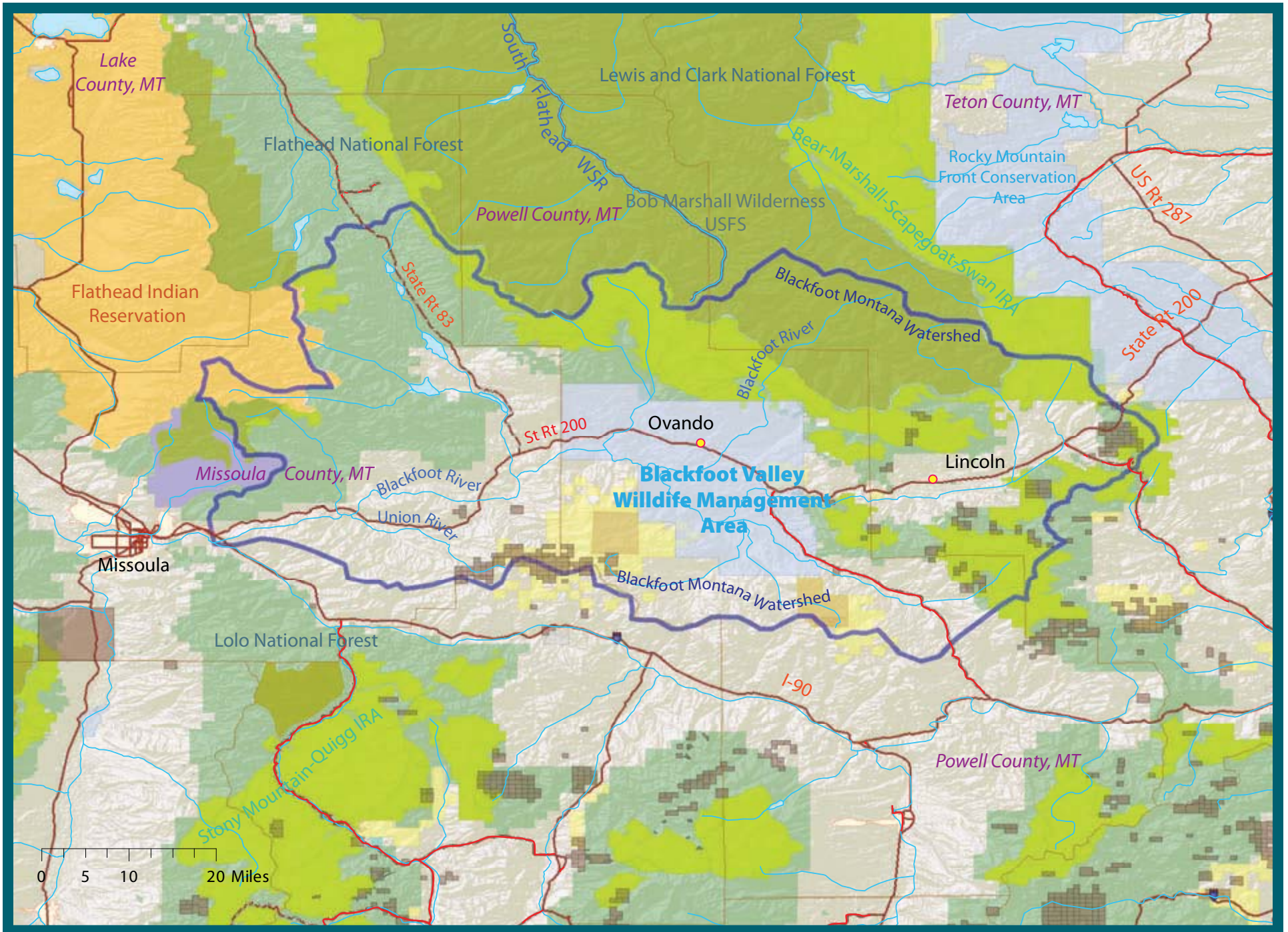
Yosemite National Park, in the heart of California's Sierra Nevada mountains, is one of the nation's first parks. Designated as a World Heritage site in 1984, Yosemite is best known for its giant Half Dome, which towers over deep valleys and lush groves of ancient sequoias. Each year, more than 3.5 million people from around the world come to admire the park's granite cliffs or hike on its 800 miles of trails.

Although Yosemite is one of the most biologically diverse landscapes in the region, BLM data show that roughly 120 mining claims can be found within five miles of the national park. Two-thirds of these have been staked since the beginning of 2006, with 30 claims made in 2009. The Yosemite claims include many located along the Wild and Scenic Merced River and surrounding areas of roadless national forests.

Half Dome rises in the distance at Yosemite
Photo: National Park Service



Horsetail Falls (also known as Fire Falls)
Photo: © Don Smith/Getty Images



See front cover flap for legend.

4 MONTANA: BLACKFOOT RIVER

The Blackfoot River begins in western Montana at the Continental Divide. Immortalized in the film "A River Runs Through It" (1992), the river draws canoeists and fly fishermen alike as it travels through Big Sky country toward the Clark Fork River. Portions of the Blackfoot's watershed bear the scars of past mining, but local ranchers and conservationists joined together to establish an award-winning restoration program.²³ Today, conservation easements protect the river, the diverse landscape and a wealth of wildlife.²⁴

The efforts of local leaders could be hindered, however, by approximately 2,250 mining claims in the Blackfoot watershed—more than half of which date from 2006 or later. This recent spike includes the staking of more than 650 claims in 2007 and nearly 285 in 2009.



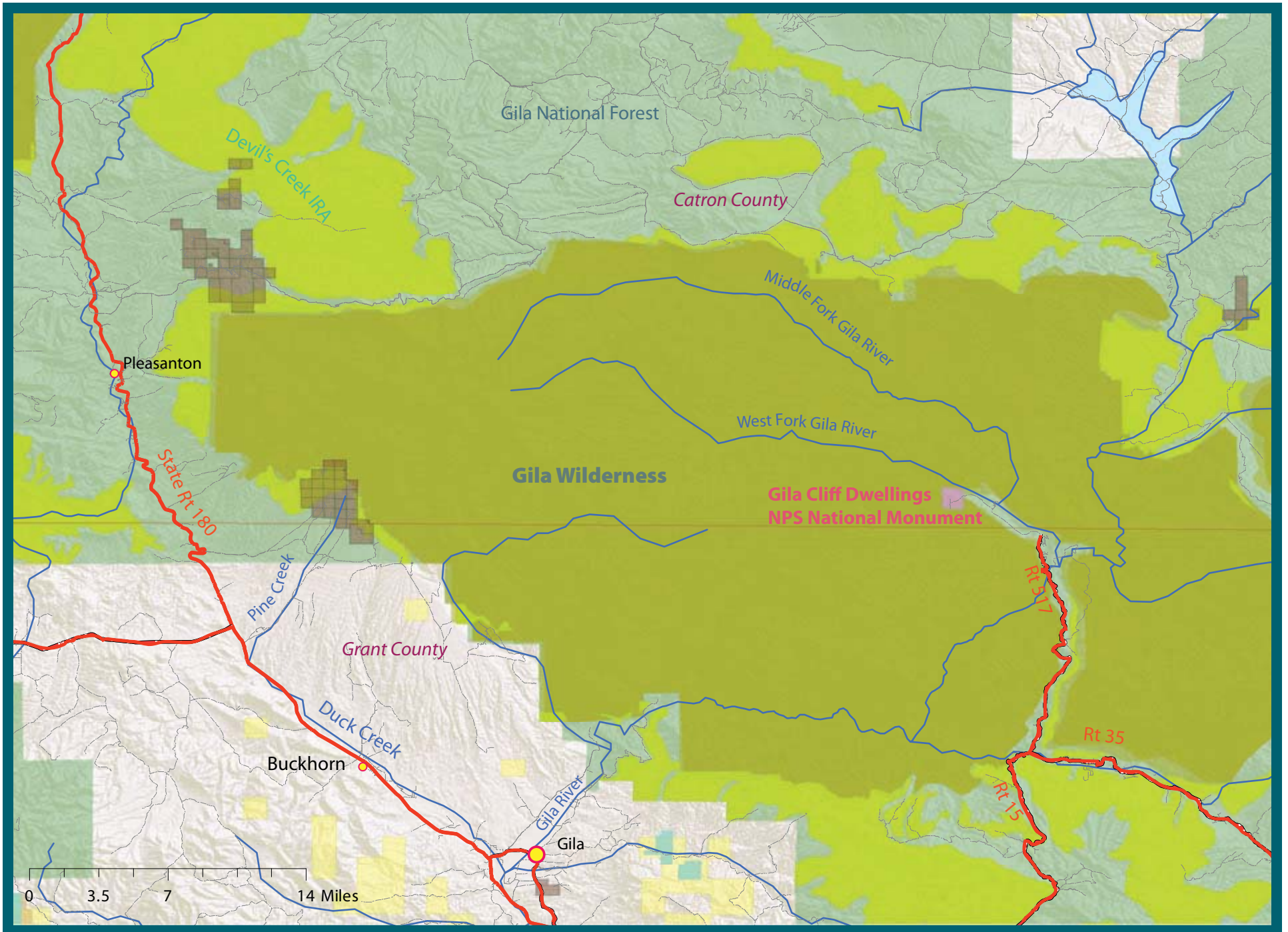
Elk cross the Blackfoot River near Lincoln
Photo: © Danita Delimont/Alamy



North Fork of the Blackfoot River in the Scapegoat Wilderness near Missoula
Photo: AaronPeterson.net/Alamy



An angler fishes the Blackfoot River
Photo: AaronPeterson.net/Alamy

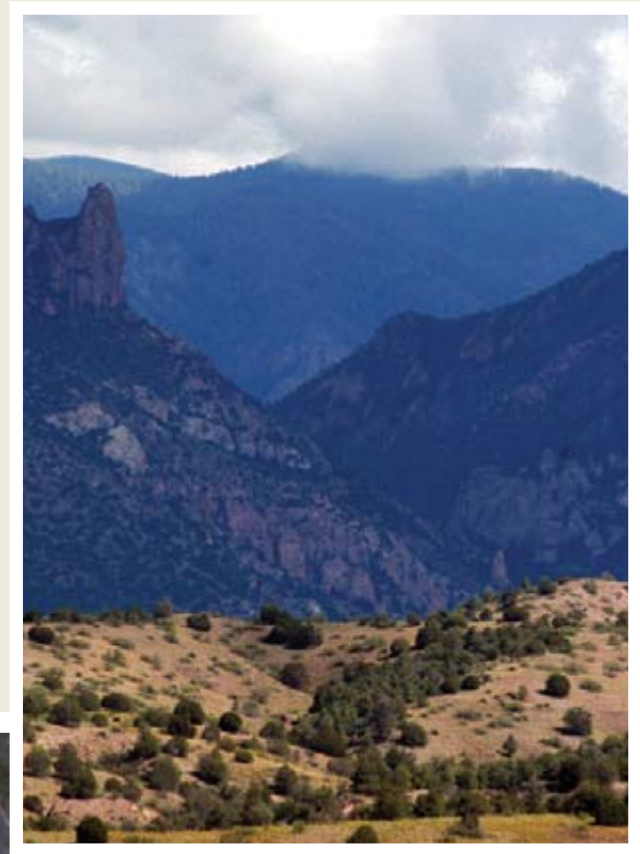


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5 NEW MEXICO: GILA WILDERNESS

The Gila National Forest in southwestern New Mexico, at 3.3 million acres, is one of the largest national forests in the continental United States. Thanks to scientist and forester Aldo Leopold, a portion of the forest was protected as the world's first designated wilderness. Its rugged terrain ranges from the Rocky Mountains and deep canyons to semidesert, attracting backcountry hiking and hunting enthusiasts.

But the wilderness that Leopold protected is now threatened by hardrock mining. According to government figures, there are more than two dozen claims in the Gila wilderness and more than 700 in national forest roadless areas surrounding the designated wilderness. Roughly half of the claims have been staked since the beginning of 2006.



The terrain includes mountains,
canyons and semidesert
Photo: New Mexico Tourism Department



Cactus in bloom
Photo: Steev Hise/Flickr



See front cover flap for legend.

6 OREGON: SISKIYOU WILD RIVERS AREA

Located in southwestern Oregon, the Siskiyou Wild Rivers area—which includes the Chetco Wild and Scenic River—contains one of the largest remaining complexes of wilderness and unprotected roadless areas on the Pacific coast. This landscape of forested peaks and sparkling mountain rivers supports salmon runs and thousands of plant and animal species, some of which are found nowhere else.

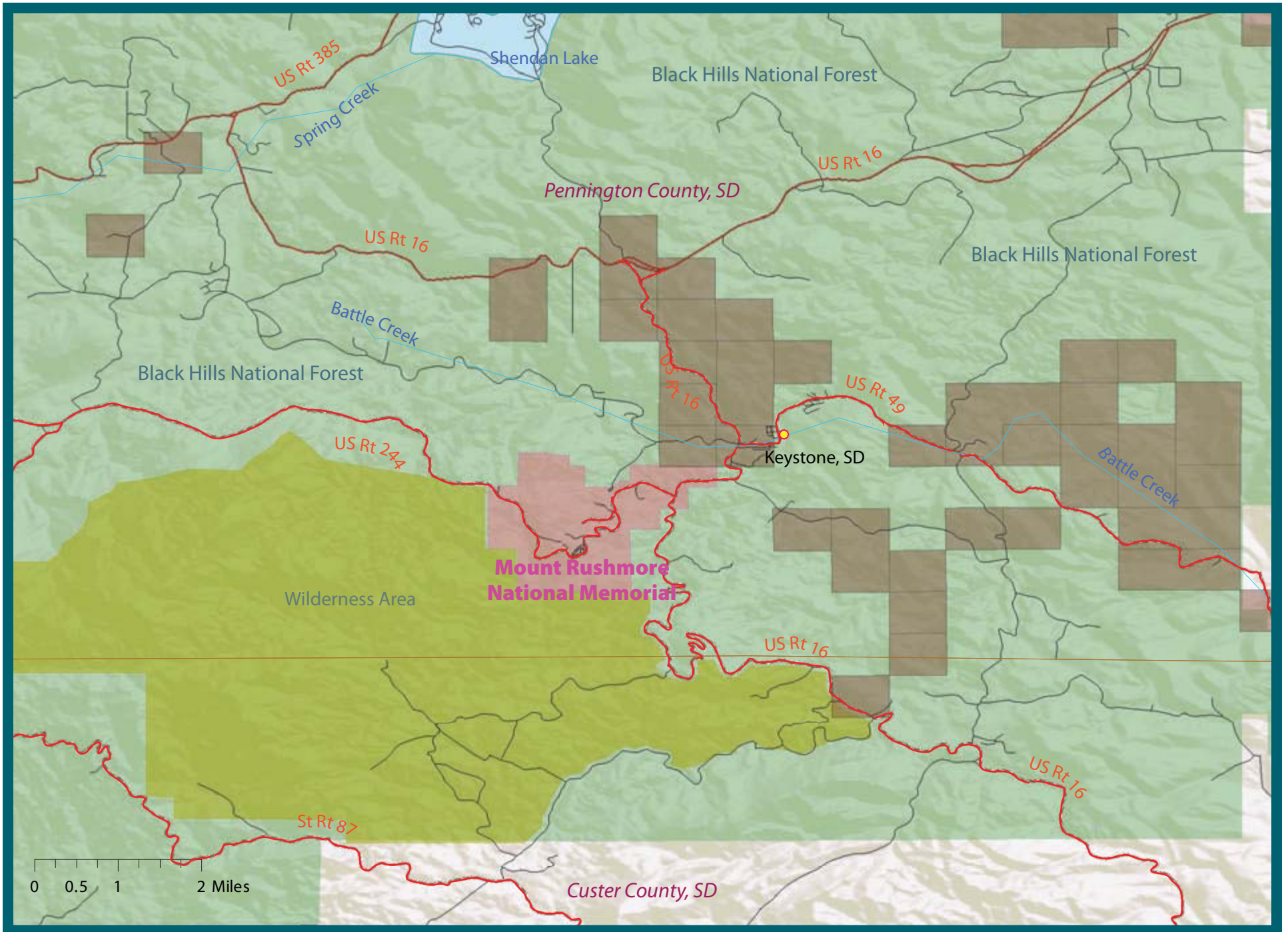
Nevertheless, the entire area has been peppered with mining claims, including about 45 that lie near a portion of the Chetco and in nearby roadless forests. BLM data show that more than half of the claims have been staked since 2000. In 2001, a proposed 4,000-acre mine near Rough and Ready Creek prompted the Clinton administration to withdraw more than 150,000 acres from new claim staking.²⁵ However, the withdrawal for most of that area—118,000 acres—was reversed by the Bush administration in 2003.²⁶ Today, the state's top officials, including U.S. Sens. Ron Wyden and Jeff Merkley and U.S. Rep. Peter DeFazio, have called for reinstatement of the withdrawal.²⁷



Rough and Ready Creek in
the Siskiyou Wild Rivers area
Photo: Oregon Wild



California lady's slipper
Photo: Oregon Wild



See front cover flap for legend.

7 SOUTH DAKOTA: MOUNT RUSHMORE NATIONAL MEMORIAL

Mount Rushmore—with its stone-carved images of Presidents George Washington, Thomas Jefferson, Abraham Lincoln and Theodore Roosevelt—is one of the nation’s most recognizable landmarks. Each year, nearly 3 million people from around the world visit the Black Hills to marvel at this monumental granite sculpture by Gutzon Borglum, which took nearly two decades to complete.

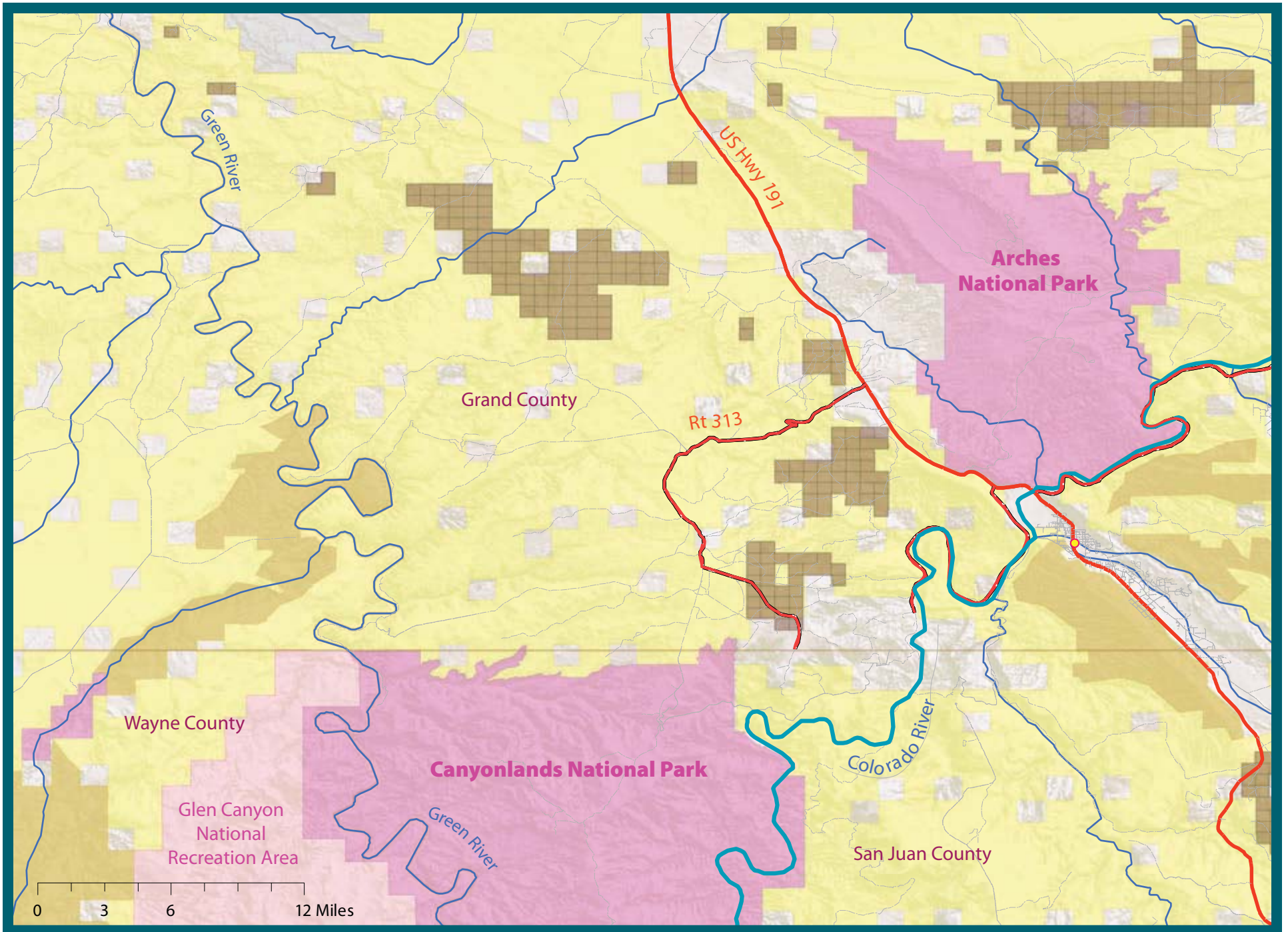
But there are roughly 40 active mining claims within five miles of this stunning memorial in the Black Hills National Forest. More than a third have been staked from 2007 to the present.



Mount Rushmore
Photo: National Park Service



Gutzon Borglum, sculptor of the Mount Rushmore monument, plants the U.S. flag on the summit in 1925
Photo: National Park Service



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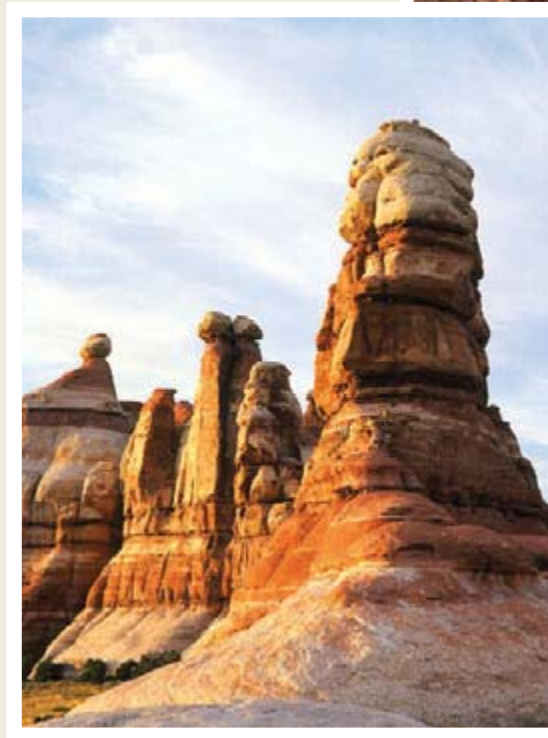
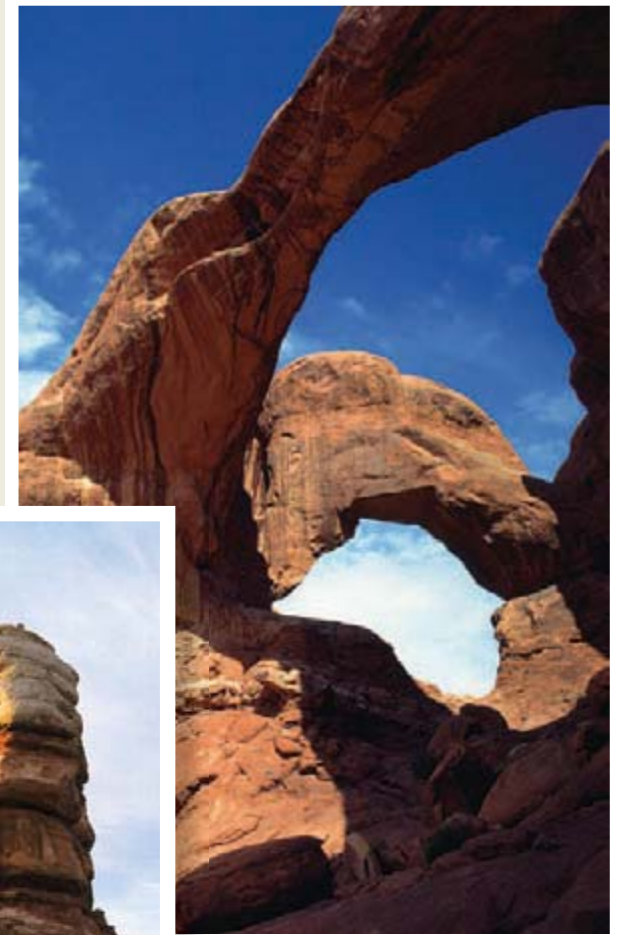
8 UTAH: CANYONLANDS AND ARCHES NATIONAL PARKS

Like the Grand Canyon in Arizona, Utah's Canyonlands National Park is a vast system of colorful canyons, mesas and buttes carved out of rock over millennia by the Colorado River and its tributaries. The deep gorges of layer-cake sedimentary rock provide valuable clues to life more than 300 million years ago. American author Edward Abbey, a frequent visitor, described the Canyonlands as "the most weird, wonderful, magical place on earth—there is nothing else like it anywhere."

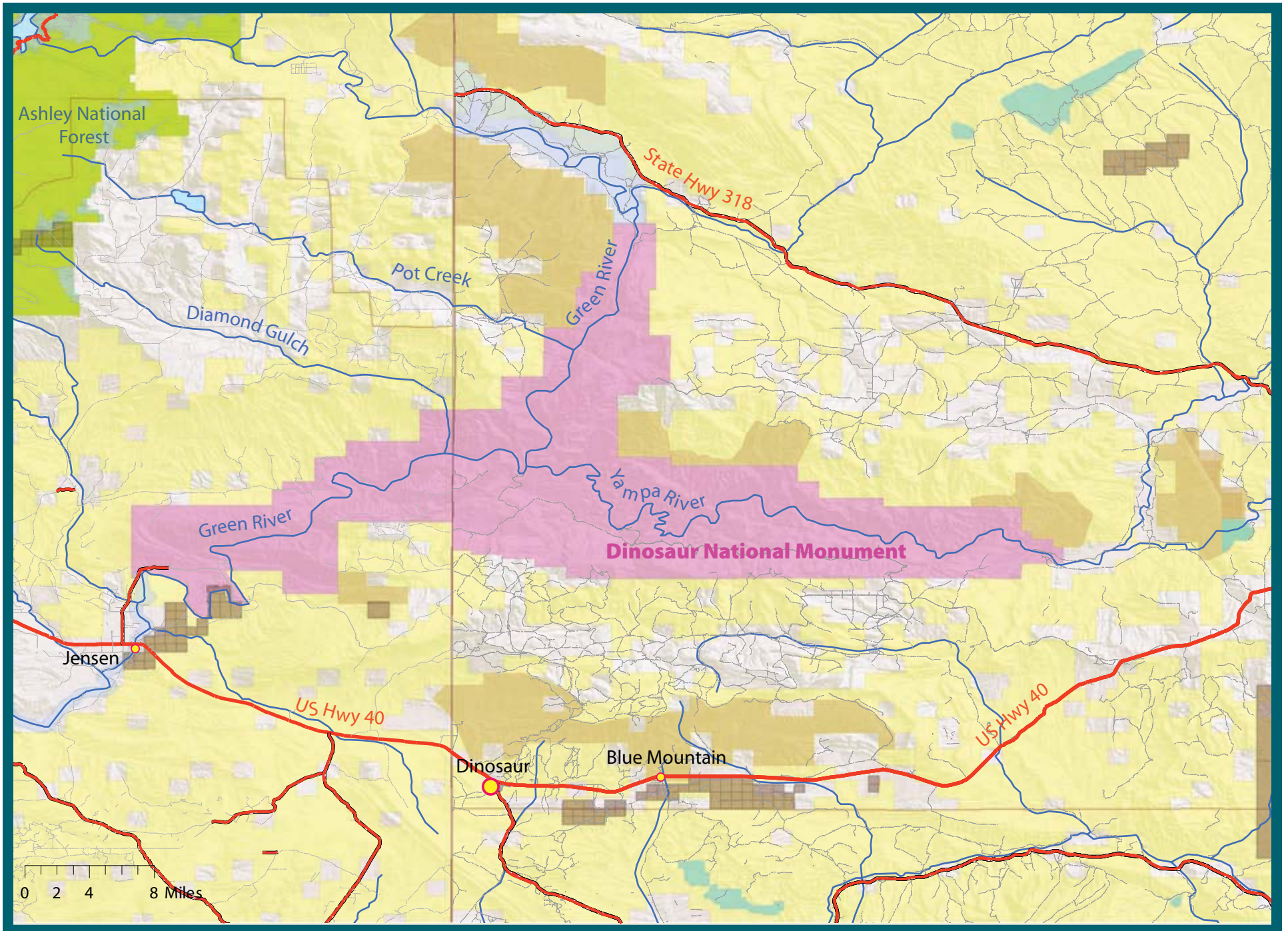
To the north of Canyonlands, Arches National Park protects more than 2,000 sandstone arches created from deposits of an ancient sea some 300 million years ago. Today this geological wonder attracts about 860,000 visitors a year. Situated in the heart of the Colorado Plateau desert, the park serves not only as a tourist destination but also as home to a wide range of species, including peregrine falcons, bighorn sheep and mule deer.

In recent years, however, the area between Arches and Canyonlands national parks has drawn numerous mining claims; roughly 950 have been made within five miles of the boundaries of the two parks. Ninety-nine percent of the claims have been staked since the beginning of 2005.

Double Arch in
Arches National Park
Photo: National Park Service



Chesler Park, Canyonlands
National Park
Photo: National Park Service



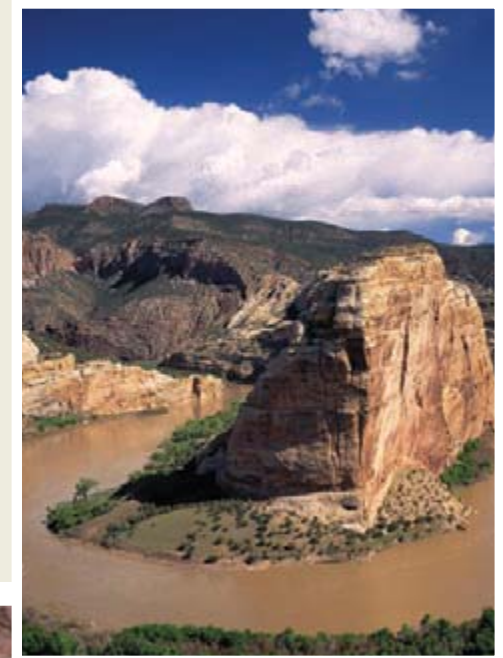
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9 UTAH AND COLORADO: DINOSAUR NATIONAL MONUMENT

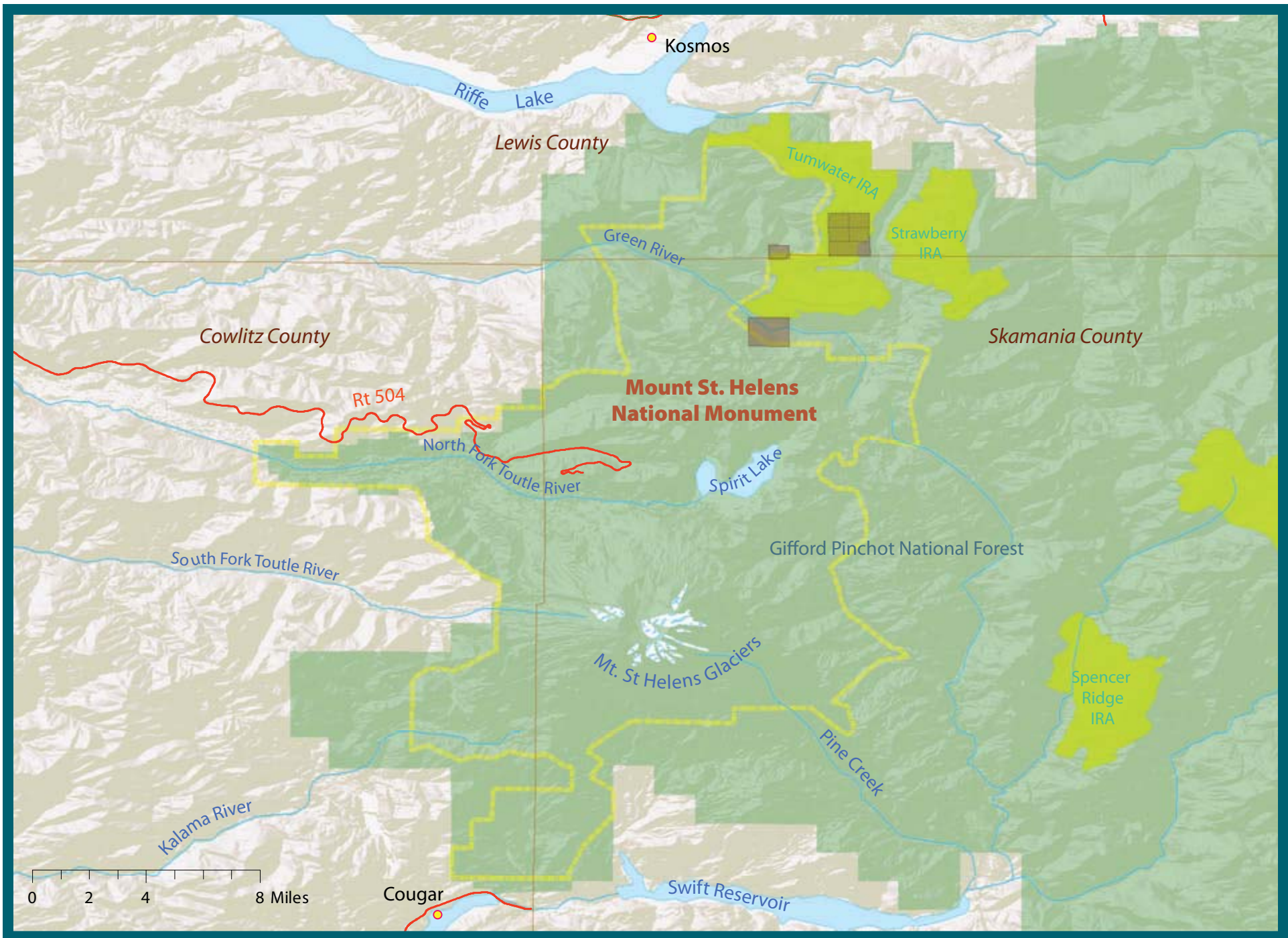
Dinosaur National Monument lies in the rocky hills along the Utah-Colorado line. The site was designated by President Woodrow Wilson in 1915 to protect a large deposit of Jurassic-period dinosaur fossils found in an ancient riverbed and estimated to be 150 million years old. In February 2010, paleontologists uncovered evidence of a new dinosaur species near the monument, reinforcing its importance to scientists and tourists alike as a window into prehistoric life.

Today, however, about 35 mining claims are within roughly five miles of the park boundary and near the banks of the Green River, a major tributary of the Colorado. Ten of these claims were staked in 2008 and 2009.

Steamboat Rock looms above the confluence of the Yampa and Green rivers in Dinosaur National Monument
Photo: Tom Till/SuperStock



Fossils in Douglass Quarry at Dinosaur National Monument
Photo: National Park Service



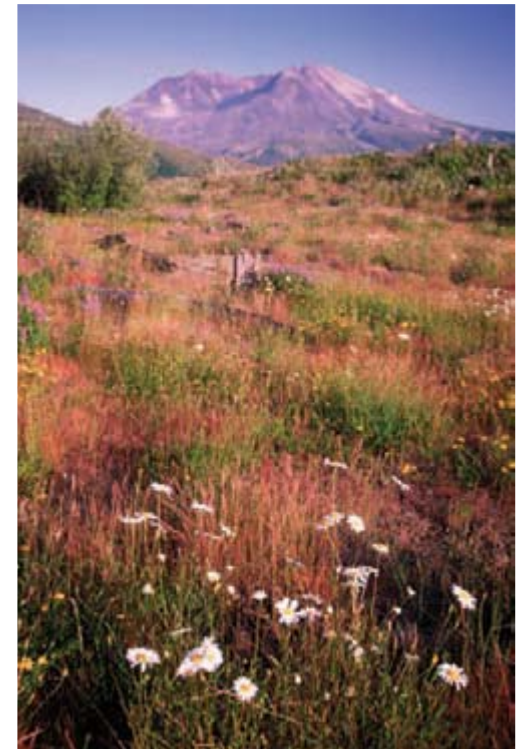
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10 WASHINGTON: MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT

Thirty years ago, Mount St. Helens exploded in one of the most powerful volcanic eruptions ever recorded. Today, the once devastated landscape has begun to recover, giving scientists an unmatched laboratory in which to study natural regeneration after a massive disturbance. In the area that has been designated a national monument, visitors can see clear evidence of loss and regrowth, and still enjoy the landscapes that escaped the worst of the eruption. In the Green River Valley area, stands of old growth Douglas fir survived, along with hillside meadows supporting herds of North American elk. The Green River is home to threatened populations of winter steelhead and fall chinook salmon.

According to federal data, nearly 60 claims have been made within five miles of Mount St. Helens, almost all of them staked in 2004. Some of these claims are near the Green River and in roadless national forest areas north of the volcano and the monument boundary. Others are in proximity to landholdings purchased from the federal government by mining interests under the 1872 Mining Law and reacquired by the U.S. Forest Service with U.S. Treasury monies through the Land and Water Conservation Fund. Plans for a massive copper mine in the area were put on hold after a public outcry in 2008, but new interest in the area by Canadian-based mining companies could result in a large-scale mine on the edge of the monument boundary.

Wildflowers abound in the rich soil at the foot of Mount St. Helens in Washington
Photo: Roddy Scheer



Mount St. Helens rises above Coldwater Lake
Photo: J. Huffman Photography

A TALE OF TWO CITIES

RECENT MINING CLAIMS AFFECT RESORTS

The slopes outside of the historic town of Breckenridge, Colo., are consistently recognized as some of the best places to ski in North America. At an elevation of more than 9,000 feet on the western slope of the Continental Divide, Breckenridge has also become a year-round vacation destination, offering other recreational pursuits including hiking, biking and fly-fishing. To the southwest is Aspen, another resort community famous for its skiing, picturesque landscapes and proximity to undeveloped national forests including the Maroon Bells-Snowmass Wilderness Area.

But despite their popularity in all seasons, these resorts could be threatened by mining. Breckenridge has more than 170 mining claims within five miles of town limits, more than 60 of which were staked since the beginning of 2008. Aspen has more than 200 claims within the same distance, more than two dozen of which were staked in the past decade.



The mountains surrounding Breckenridge, Colo., offer some of the best outdoor recreation in the country.

Photo: Courtesy of the Town of Breckenridge

ALASKA'S BRISTOL BAY SPORTSMEN FIGHT FOR WORLD-CLASS WATERSHED

Bristol Bay is an ecologically rich area of fisheries and other marine resources in the southeastern Bering Sea of Alaska. The region sustains the world's largest wild sockeye salmon run, and commercial, subsistence and sport fishing contribute hundreds of millions of dollars and thousands of jobs to the local economy. The Nushagak and Kvichak rivers, recognized by anglers worldwide for their outstanding trout and salmon habitat, feed into the bay. Within the headwaters of these famous rivers are caribou, brown and black bears, moose and one of the planet's greatest concentrations of seabirds. Because of the unique importance of the area, President Barack Obama has placed this offshore area off limits to oil drilling until 2017.

These public lands in the Bristol Bay watershed were put off-limits to mining 30 years ago, but most of this area could be reopened to mining prospectors with the stroke of a pen.ⁱ After a massive gold, copper and molybdenum mine was proposed on state-owned



Bristol Bay, Alaska, has one of the richest marine ecosystems in North America. In the foreground is Round Island.

Photo: © Lee Rentz Photography

land nearby, industry sought to revoke the existing withdrawal and allow for major industrialization in the Bristol Bay watershed. Unless Secretary Ken Salazar maintains the mineral withdrawal, Bristol Bay's ecological bounty could be at risk.

ⁱ Pemberton, M., "Groups seek Bristol Bay protection: At issue is a resource management plan from Bush administration," Associated Press in *Juneau Empire*, Aug. 27, 2009, www.juneauempire.com/stories/082709/sta_486592572.shtml.

RECOMMENDATIONS

REFORM THE 1872 MINING ACT

The recent proliferation of new mining claims and the critical need for reclamation and cleanup make reform imperative. In the 21st century, the United States can no longer afford to manage its public lands and resources with the antiquated 1872 Mining Law, unchanged, still on the books. Congress should modernize this outdated measure. And the Obama administration, which announced in 2009 that revising the law was one of its top environmental priorities, should work proactively with U.S. Senate and House leadership to enact reform legislation in the 112th Congress.

Comprehensive reform of the mining law would protect many of America's most treasured places. It also would end the forced sale of public land, known as patenting; compensate taxpayers for the value of minerals collected on public land; set strong environmental and public health protection standards for mine operations; establish accountability for cleanup; and allow Western communities a voice in protecting the public lands and resources that have become crucial to their overall quality of life and economic well-being.

PROTECT SPECIAL PLACES FROM MINING

A 19th-century law gives gold, uranium and other metal mining priority over conservation, recreation and other uses on millions of acres of public land in the West. Despite persistent calls for reform of the 1872 measure, Congress has failed to modernize the statute that works at cross purposes with important conservation initiatives. Until Congress completes comprehensive mining law reform, the responsibility for protecting these national treasures for future generations rests largely with President Barack Obama and Interior Secretary Salazar.

Secretary Salazar has the authority under the Federal Land Policy and Management Act to withdraw public

lands from new mining claims. This is an important tool to proactively protect scenic landscapes, valuable fish and wildlife habitat and local communities from industrial activities that should not be allowed on or near these areas. Until Congress makes significant changes to the 1872 Mining Law, the interior secretary should give serious consideration to using his withdrawal power to protect national parks, monuments, forests and other special places, including those highlighted in this report.

In addition to protecting specific places, the interior secretary should work with the secretary of agriculture and appropriate agency heads to look at

classes of public lands that may be at risk from the mining law and, therefore, should be withdrawn. Such a list might include, for example, national forest roadless areas, agency-designated Wilderness Study Areas, certain unprotected wildlife refuges, areas identified as critical habitat for threatened or endangered species, and headwaters or groundwater

recharge areas that feed important public water supplies. In considering broader withdrawals for certain classes of land, the secretary should solicit recommendations from land managers, wildlife experts, water supply regulators and others within the federal government, as well as the public.

GIVE STATES AND LOCAL JURISDICTIONS A VOICE

Under the Federal Land Policy and Management Act, the interior secretary may initiate withdrawals on his own authority or in response to applications for withdrawals. Regulations require the secretary only to consider applications made by a "federal department, agency or office."²⁸ Although state, tribal and local government entities and members of the public can seek withdrawals, the secretary is not obligated to respond.

BLM rules should be revised to include governors, state agencies and local government entities

as withdrawal applicants, allowing them to call for withdrawal where mining or other industrial operations could significantly affect a community's land and water quality or economic viability. Giving states, local communities and tribal governments a voice on metal mining that impacts their environmental and economic future would provide a much-needed tool to ensure a more fair and balanced use of our public lands. This principle was incorporated in the bipartisan 1872 reform legislation that passed the House of Representatives in 2007.²⁹

ENSURE TAXPAYER ACCOUNTABILITY

Finally, the Department of the Interior should bring a new level of accountability and transparency to mining on public lands. Currently, for example, the agency does not track the location or cost to taxpayers of buying back claims from private stakeholders despite the hundreds of millions of

dollars that have been spent. In addition, maps of withdrawn areas and claim-staking activity should be readily available to the public online, with up-to-date information regarding withdrawal dates. While the department does make some withdrawal information available, it is not centralized or easily accessible.

CONCLUSION

In the 21st century, the United States can no longer afford to manage its public lands and resources with an antiquated 19th-century law, and as the recent proliferation of claim staking highlights, America's irreplaceable natural treasures make speedy action an imperative. In 2009, President Obama said, "[W]hen we see America's land, we understand what an incredible bounty that we have been given. And

it's our obligation to make sure that the next generation enjoys that same bounty." Almost 140 years after the 1872 Mining Law was enacted, it is time for Congress to modernize it. The Obama administration can do its part as well by exercising leadership on reform and, in the interim, protecting the Grand Canyon and other places of incredible bounty through executive branch withdrawal action.

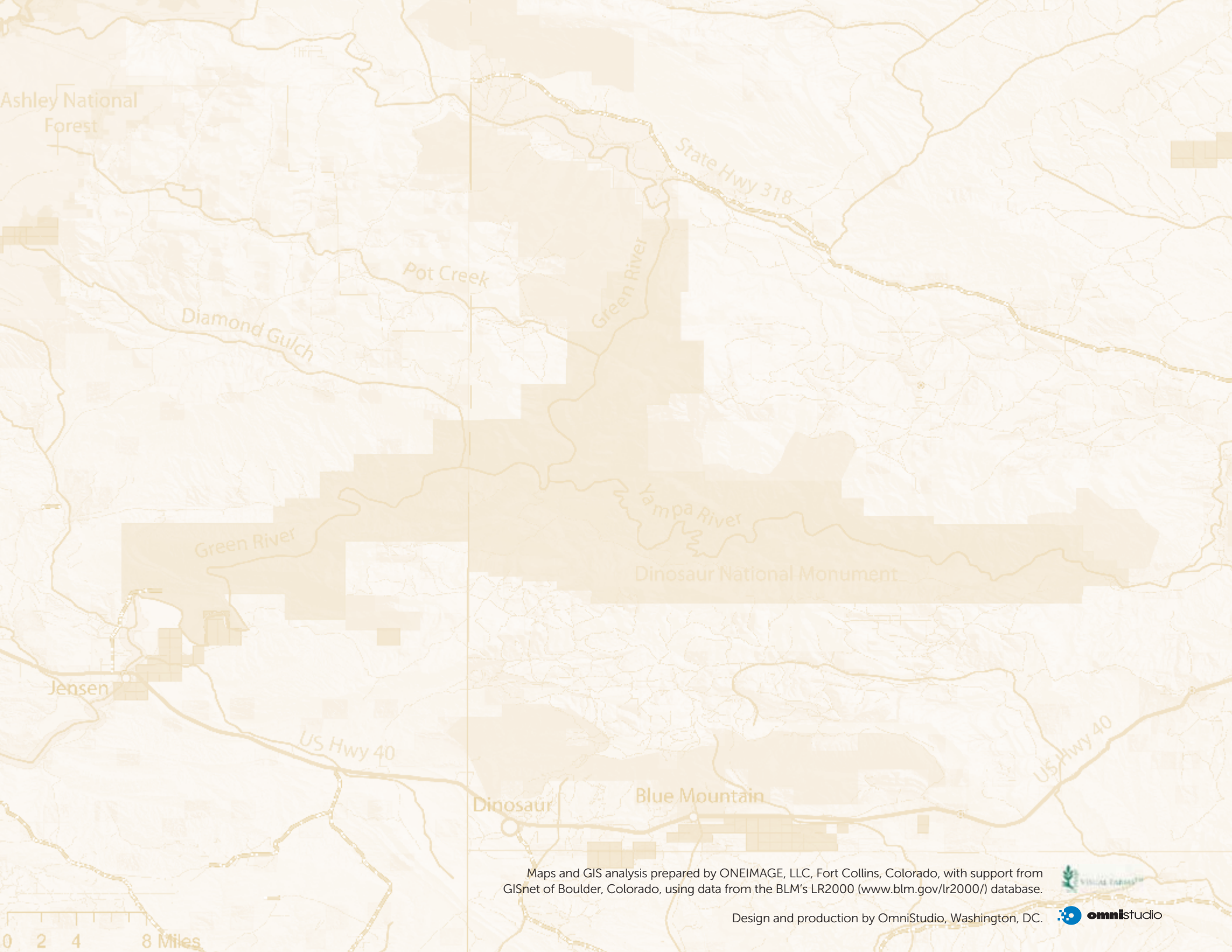
ENDNOTES

- 1 The information used in this report was downloaded from the BLM database, which provides information on BLM land and mineral use authorizations for oil, gas and geothermal leasing, rights-of-way, coal and other mineral development, land and mineral title, mining claims, withdrawals and classifications. The maps in this report were prepared by Onelimage of Fort Collins, Colo., using a Feb. 22, 2010, download of data from BLM's LR2000 database. Mining claims may vary in size but generally cover 20 acres—about the size of 20 football fields. The BLM database that contains claims data does not include the precise location of claims but locates them within a quarter section of the grid system called the Public Land Survey System. Each small claim square represented on these maps covers a quarter of a square mile and may include one or more claims. Larger boxes may represent claims greater than 20 acres held under multiple ownership.
- 2 Under the Federal Land Policy and Management Act of 1976.
- 3 The mining law's policy of open access, which allows for exploration, claim staking and mineral development, applies to federal "public domain" land—land the government has owned since it was first acquired. The vast majority of that land is in the western United States. With the management status of various parcels of public land changing at any given time, up-to-date, precise figures are not readily available from the Interior Department. Previous estimates appear to indicate that the acreage open to operation of the mining law could total about 350 million. See, for example, National Research Council, *Hardrock mining on federal lands*, National Academy Press, 1999, www.nap.edu/openbook.php?record_id=9682; and Congressional Research Service, *Mining on federal lands: Hardrock minerals*, April 30, 2008, <http://ncseonline.org/NLE/CRSreports/08Apr/RL33908.pdf>.
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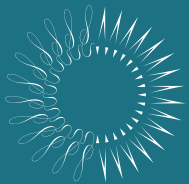
Maps and GIS analysis prepared by ONEIMAGE, LLC, Fort Collins, Colorado, with support from GISnet of Boulder, Colorado, using data from the BLM's LR2000 (www.blm.gov/lr2000/) database.



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