

High Country News

For people who care about the West



PRISON TOWN

How Adelanto, California,
tied its fate to the booming
immigration-incarceration
economy

By Sarah Tory



A hopeful slogan for the Southern California town of Adelanto, which turned to a prison and detention-center economy after its military base closed. ANDREW CULLEN

On the cover

A guard escorts an immigrant detainee through the Adelanto Detention Facility in Adelanto, California, where around 2,000 detainees of Immigration and Customs Enforcement await hearings on their immigration status.

JOHN MOORE/GETTY IMAGES



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FEATURE

12 Prison Town

How Adelanto, California, tied its fate to the booming immigration-incarceration economy By Sarah Tory

CURRENTS

- 5 **California tribe wins groundwater rights**
Federal court ruling could limit supplies for other users
- 5 **The Latest:** Mexican gray wolves
- 6 **Suburbanites reckon with arcane drilling law**
On Colorado's Front Range, companies can extract oil and gas from private land — without homeowners' permission
- 6 **The Latest:** Pallid sturgeon and a Yellowstone River dam
- 7 **Mistrial in Bundy standoff case** Jury deadlocked over most charges
- 8 **Public banking goes to pot** Can the cannabis industry help launch the nation's first public bank in nearly a century?

DEPARTMENTS

- 3 FROM OUR WEBSITE: HCN.ORG
- 4 LETTERS
- 10 THE HCN COMMUNITY Research Fund, Dear Friends
- 21 MARKETPLACE
- 24 ANALYSIS
Fact-checking Trump's Antiquities Act order By Jonathan Thompson
- 26 BOOKS
Engineering Eden by Jordan Fisher Smith and *The Bear Crisis and a Tale of Rewilding from Yosemite, Sequoia, and Other National Parks* by Rachel Mazur. Reviewed by Kit Stolz
- 27 ESSAY The Collector By Murr Brewster
- 28 HEARD AROUND THE WEST By Brian Calvert

Editor's note

Imprisoning myths

We the people are living through a period of history where our national mythologies have been laid bare. It has been a tough run: 9/11 showed us our vulnerabilities, even as the sin of exceptionalism led us into an unwinnable, unending war; then came the Great Recession, the result of Wall Street greed and the optimism of fools; then the triumph of cynical corporations; and now a new president who revels in chaos and xenophobia, lies with impunity and brings out the worst in all of us. Many who voted for Donald Trump, I believe, did so out of fear and frustration — the emotions that undergird intolerance. But no one has a monopoly on hate. And we are all in the same mess now.



Here in the West, we are no strangers to American myths — of progress, of independence, of high character. As much as we'd like to forget it, though, our region was built on blood and bone, conquest and lies. Our wide skies and wild spaces conceal a dark history, and if we are all to live in this region together and move forward, we must confront the untruths that hold us back. Especially in such troubled times, when the temptation is to hunker down and mind our own business.

This issue's cover story tells of a town in Southern California that, betrayed by the stories it told itself, is now in a desperate struggle for viability. In that struggle, as correspondent Sarah Tory reports, the town has become part of a booming incarceration economy, a heavy cog in a brutal machine that imprisons the innocent, denies basic rights, and perpetuates confinement for the sake of economic efficiency. Adelanto, California, was built on the myth of desert agriculture. When its orchards dried up, it reinvented itself as a military town. And when its Air Force base closed, it turned to prisons, earning pennies on the dollar for a corporation that profits by detaining asylum-seekers and others for the Department of Homeland Security.

The story of Adelanto is inextricable from the story of its prisoners, and Sarah unsparingly reveals the history of both the town and of one man caught in its system, an asylum-seeker who believed in the American promise of freedom and found only despair. It is a difficult story to read, for it asks many questions about our basic values. Dostoyevsky famously said that "the degree of civilization in a society can be judged by entering its prisons." Here, we go even further; we take you inside a detention facility designed for the innocent. We are far beyond *Crime and Punishment* and deep into *Capitalism and Profit*. Read it, and ask yourself: Why does such a place exist at all? And why was it built in the American West?

—Brian Calvert, editor-in-chief



A gas well, seen in the upper left below the bike path, lies less than 200 feet from the Firestone, Colorado, home that exploded in late April, killing two. Investigators say the cause was a “fugitive gas leak” from a well flow line that had been cut but not capped. RJ SANGOSTI/THE DENVER POST VIA GETTY IMAGES

Fatal explosion linked to gas well

In April, a home in Firestone, Colorado, a fast-growing community 25 miles north of Denver, erupted in a fiery explosion. The blaze destroyed the house, and two men were killed. In early May, following a two-week investigation, the local fire department linked the blast to a recently restarted gas well, located 178 feet behind the home. Gas from the well, operated by Anadarko Petroleum Corp., entered the house from a cut, abandoned gas flow line still connected to the well. The fatal home explosion reignites the drilling safety debate as the increase in drill rigs, truck traffic and well pads encroaches on suburban communities. For years, activists have pushed to limit drilling near growing suburban communities along Colorado's Front Range, while the state government and industry leaders have fought tougher restrictions. Following the explosion, Anadarko pledged to co-operate with the oil and gas commission and investigators, and the company shut down 3,000 wells across northeast Colorado. “We hope that doing so also provided some additional reassurance to the community in the wake of this tragic accident,” said Al Walker, Anadarko CEO and president, in a statement. JOSHUA ZAFFOS

MORE: hcne.ws/well-explosion

Trending

Make your march matter

Could the gritty work of revolution be too burdensome to exchange our comfortable lives for the difficult acts of protest required to change the path of government? In an opinion column, Auden Schendler argues that if the citizenry refuses to endure more than “the footsore feeling of a long walk down a wide avenue,” then action on a number of pressing issues will continue to elude us. A possible fix? “If marchers blocked Trump Tower for six months, caused commerce to stop, got arrested, then did it again and again, you might just get somewhere.”

AUDEN SCHENDLER/
OPINION

You say

LYNN JACKSON: “What I find troubling about (the March for Science) is that scientists — real scientists, that is — purposefully stay out of politics. Most of them realize that to do otherwise is to cast their credibility in doubt.”

CHARLIE LAWTON: “Scientists have never, and will never, and do not, purposefully stay out of politics, and we don't delude ourselves that science is immune to political pressure or doesn't have political implications.”

VINCENT LANDAU: “It will have no direct impact, as marches generally don't. However, (marches) act as a catalyst for further action by those who participate, whether it's considering science when deciding whom to vote for, or contacting representatives.”

MORE: hcne.ws/why-march and [Facebook.com/highcountrynews](https://www.facebook.com/highcountrynews)

1 in 5

Ratio of residents of Los Angeles' Boyle Heights neighborhood who are in the U.S. illegally

78

Number of “detainer” requests issued to Los Angeles law enforcement by U.S. Immigration and Customs Enforcement during one week in February.

A day in the life of Los Angeles Police Department Officer Alex Fiallos helps illustrate how the Trump administration's new immigration policies are playing out in one of the West's most diverse cities. In Los Angeles, a complicated history of racial conflict and crime impacts the way officers navigate the demands of community policing. In the neighborhood Fiallos patrols, a significant portion of the community is undocumented. But keeping crime rates low depends on gaining their trust. “Some people around the neighborhood say you shouldn't trust the police because they can turn you over to immigration,” she says. “We have no time for that.” RUXANDRA GUIDI

MORE: hcne.ws/immigration-patrol

What's really killing King Coal?

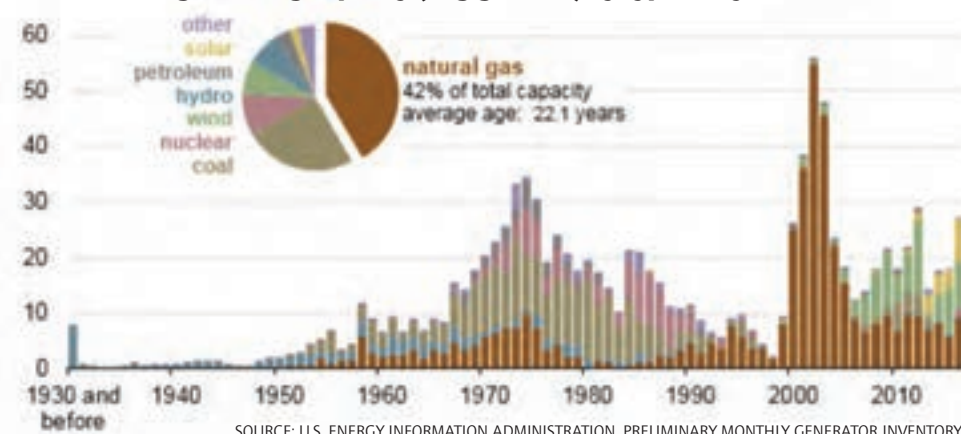
In April, Energy Secretary Rick Perry called for a review of “regulatory burdens” on the coal-mining industry. Baseload power sources, like coal and nuclear, are dying out not because of regulations, but because the market and new technologies are transforming the electric grid. Policies have encouraged development

of sources of alternative energy, but the most significant factor in coal's demise has arguably been cheaper, abundant supplies of natural gas: Today, the country produces 50 percent more gas than it did a decade ago — and at half the cost.

JONATHAN THOMPSON

MORE: hcne.ws/dwindling-coal

Electric generating capacity (in gigawatts) by type and year it went online



Photos



CELIA TALBOT TOBIN

Canada's coal pollutes Montana's streams

The Elk River that straddles Montana's northern border has been one of the continent's most fruitful ecosystems for fly-fishing. But the river also happens to drain Canada's most productive coal country. As the government implements stricter controls on selenium pollution, nearby residents hope U.S. pressure can spur Canadian action, too.

CELIA TALBOT TOBIN

MORE: hcne.ws/canada-coal

“It's ridiculous that they would even think about coming into this land — only a quarter of a mile or less away from the Colorado River and the Colorado River Headways Scenic Byway — to try to do oil and gas development.”

—Ken Fosha, owner of a dude ranch near Rocky Mountain National Park that was scheduled to be part of a BLM lease sale but then withdrawn, in an unexpected victory for conservationists

ELIZABETH SHOGREN MORE: hcne.ws/trumps-limits

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our website, hcn.org.*

CHOOSING TO RIDE

Your “Recapture Canyon rules” update in the May 1 issue had this quote from Interior Secretary Ryan Zinke: “For many persons with disabilities or for people who just don’t get around like they used to, our public lands aren’t accessible without motorized vehicles.”

For folks with legitimate disabilities, I can see this in appropriate spots, but we also need enforceable (and enforced) restrictions on where the motor vehicles can go. If you ride off-trail in obviously restricted areas, losing your ORV seems like a fair penalty.

For folks who just don’t get around like they used to, I don’t have much sympathy. If it’s age-related, then they had a chance to go walk it when they were still in relatively good shape, just like I did. That they chose to do something else when they were younger isn’t our fault or problem. If it’s just laziness or related issues, which seem to be a big part of the problem, then they’d be better off walking anyway — you get to see more, and you get the health benefits.

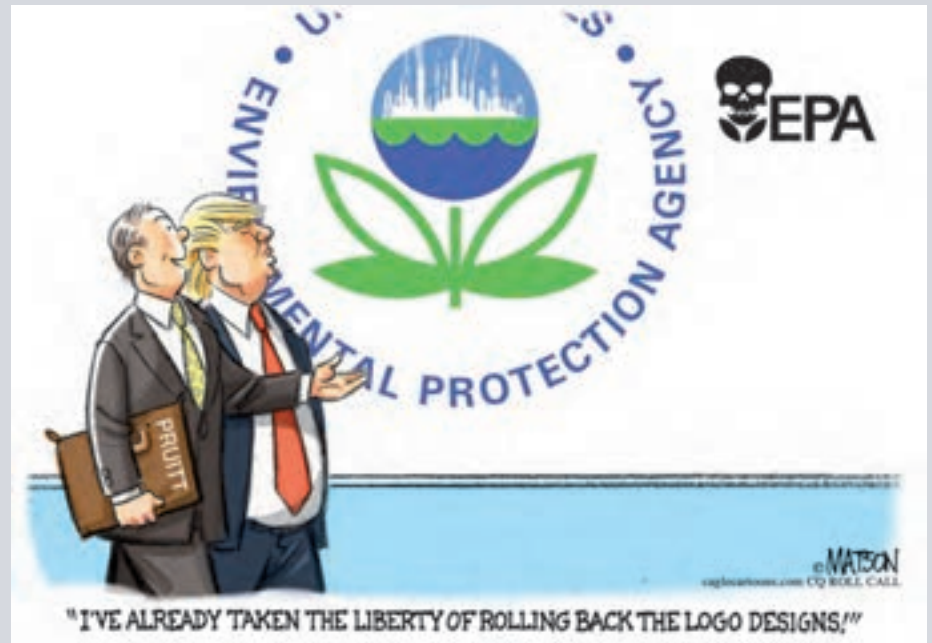
But most of the folks I see riding ORVs seem to be both young enough and fit enough to get off their butts and walk; they simply choose not to because they have this cool toy they need to play with somewhere. And it certainly invites abuse and ecological damage in a number of ways.

*Tim Baker
Eureka, California*

CHEVRON CUTS BOTH WAYS

This is a thoughtful article, but I would like to advance a contrary view (“Shifting scales,” *HCN*, 5/1/17). Our basic theory of government is that Congress enacts the laws, the executive enforces the laws, and the courts decide the facts and the laws’ meaning. Administrative agencies have been fit into this structure under the theory that Congress, by enacting laws, still decides the policy, but the administrative agencies can fill out the details of those policies by issuing regulations, and that the agencies are enforcing the laws and their regulations largely through civil actions (rather than criminal prosecutions) and are typically subject to judicial review.

The problem with *Chevron* deference is it allows the agency (rather than Congress) to decide the policy, and it reduces the effectiveness of judicial



review. There is not enough space here to discuss the doctrine of separation of powers, but it is a vital protector of our political process and of procedural fairness. *Chevron* was a departure from that long-held concept of justice. It is not enough to say that “*Chevron* helps safeguard the environment,” because it can be just as effective the other way, and because people concerned about the environment are also concerned about “liberty and justice for all.”

*Michael Waggoner
Boulder, Colorado*

CONGRESS VS. AGENCY MISSIONS

I wonder if under President Donald Trump we’ll go back to Congress deciding every policy detail and micromanaging federal agencies, creating massive stagnation in light of a Congress that views collaboration as capitulation to the enemy (“Shifting scales,” *HCN*, 5/1/17). I don’t have a legal background but I can’t see that the *Chevron* decision is a departure from long-held views of separation of powers, as it seems to stay within the guidelines set up by the Legislature for government agencies. Many laws appear to be set up purposefully broad so that the specific expertise of agencies can be utilized. Without the *Chevron* decision, the Endangered Species Act’s protection of wildlife habitat and the Environmental Protection Agency’s protection of clean air, including carbon dioxide regulation, could be eliminated, which would be a disaster for endangered species and the climate. So the question is

how to balance the separation of powers doctrine with government agencies trying to effectively fulfill their mission.

*Jim Bolen
Durango, Colorado*

EPA’S DIRTY PAST

Your story about Anne Gorsuch Burford’s tenure at the Environmental Protection Agency brings back some bad memories, especially for those working in chemical industries in the early 1980s (“Scott Pruitt isn’t the first administrator hostile to the EPA’s mission,” *HCN*, 3/20/17). The chemical industry was quite successful in getting implementation of new and lower exposure limits for chemicals such as ethylene dibromide and ethylene oxide delayed in the United States, long after their carcinogenic and teratogenic risks were well-documented. Implementation of the ethylene dibromide standards on the original timeline would have interfered with the Reagan administration’s payment-in-kind policy, which compensated farmers for holding their acreage fallow with “surplus” grain from the strategic grain reserves rather than with dollars from the federal Treasury. Trouble was, the grain had been regularly fumigated with ethylene dibromide and wouldn’t have met the recommended standard. So implementation was delayed, and the tainted grain went into the American diet. One wonders what the American public will be fed this time around.

*Edward A. Sullivan III
San Francisco, California*

High
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California tribe wins groundwater rights

Tribes have priority rights to groundwater — and that could limit supplies for other users

BY JOSHUA ZAFFOS

On the surface, Southern California's Coachella Valley seems like a cushy paradise. A short jaunt from Los Angeles, it's known for its hot springs, golf courses and music festival. But the lush retreat is something of a mirage, at least as far as water is concerned. It's a desert that receives a paltry 3 to 5 inches of rain a year.

To live here, people have always relied on groundwater, whether in historical Native American settlements or the modern resort city of Palm Springs. Surging population growth and tourism in recent decades have only increased demand. Local utilities now supply water to roughly 400,000 full-time residents, 121 golf courses, and 66,000 acres of dates, lemons and other crops, taxing the aquifer. A recent NASA study found that the aquifer underlying the Coachella Valley has dropped 62 feet since 1960, despite programs that pipe Colorado River water underground to offset the depletions.

The Agua Caliente Band of Cahuilla Indians, who have called the valley home for centuries, have been anxious about the state of the water supply for years. In 2013, the tribe sued the Coachella Valley Water District and Desert Water Agency to halt groundwater pumping. And in March, the U.S. 9th Circuit Court of Appeals delivered a major victory to the tribe. The court said the tribe has legal rights to the groundwater — a decision that could restrict housing and resort development and set a precedent for water disputes between tribes and utilities across the West.

The 9th Circuit's ruling is "a big deal," says Monte Mills, co-director of the University of Montana's Indian law clinic and one of 11 professors who penned a brief supporting the tribe's claims. It's the first time a federal appellate court has unequivocally recognized that tribal water rights extend to groundwater.

Tribal water rights stem from a 1908 U.S. Supreme Court ruling, *Winters v. United States*, which established that tribes' rights to water are tied to the dates their reservations were created. Generally speaking, that means their water rights pre-date almost all other legal water claims. And in the West, those who hold the oldest rights are entitled to water before anyone with more recent claims.

In the Coachella Valley, the tribe's rights date to 1876, which could mean reduced supplies for everyone else.

"The Agua Caliente have been raising concerns about the condition of the aquifer underlying the Coachella Valley for at least two decades," says Steve Moore, co-counsel for the tribe and an attorney with the Boulder, Colorado-based Native American Rights Fund. "The matter ripened to the point that the tribe decided that their concerns were being ignored by the water districts and it was time to assert their rights in court."

The Agua Caliente Tribe also argues that the water districts' system of replenishing the aquifer with Colorado River water degrades water quality, because the river water is saltier than the aquifer. Now, a federal district court will decide on potential water-quality protections for the aquifer, such as treating the river water before piping it underground. Then it will determine just how much groundwater the tribe is legally entitled to.

The water providers have questioned the tribe's motivation, since it lacks any infrastructure to pump and transport groundwater, and hasn't disclosed how it might use its share of water. A statement from the Desert Water Agency suggested the tribe could sell the water back to the utilities and drive up rates paid by

consumers; the Coachella Water District writes that the tribe's claims could force customers to reduce water use, and potentially even lead to building moratoriums.

Beyond the valley, tribes and water managers are paying attention. "A ruling like this is good for the tribes," says Dan Decker, attorney for the Confederated Salish and Kootenai Tribes. Those western Montana tribes are finalizing a complex water-rights compact with the state and federal government to quantify their surface and groundwater rights as well as to gain legal standing for wells drilled without permits on the reservation. Decker says the court's decision bolsters the tribes' case.

Water providers, however, are concerned. Should tribes make new claims to groundwater, they would get priority when courts calculate how much groundwater a basin's users can draw. That process, known as "adjudication," has been used to rein in the groundwater mining that has often enabled development in the arid West, where, historically, groundwater has been much less strictly regulated than surface water. The Coachella Valley is one of the many basins in California and the West that have never gone through adjudication. Ultimately, the process could force some utilities to curtail or even halt groundwater pumping, leaving them scrambling for supplies.

"A lot of tribes around the country rely on groundwater and need to have access to quality groundwater in sufficient quantities for their reservations' livelihoods and economic security," Moore says. He adds that the ruling is also a boon to tribal sovereignty — the right to self-government — because it acknowledges Native Americans' right to manage the natural resources connected to their reservations. "It reinforces for a lot of tribes what they have already believed." □



A breeding pair of Mexican wolves. ENDANGERED WOLF CENTER/MICHELLE STEINMEYER

THE LATEST

Backstory

In the 1970s, the Mexican gray wolf nearly vanished from the Southwest. **The U.S. Fish and Wildlife Service began reintroductions in New Mexico and Arizona in 1998, but conflicts with ranchers kept numbers low, and the already-endangered species became dangerously inbred.** In 2015, an agency plan gave wolves more room to roam in New Mexico and allowed the release of captive-bred animals to increase genetic variation, but the state sued and a federal court ruled in its favor, halting releases ("Line of descent," *HCN*, 8/6/16).

Followup

In late April, the 10th U.S. Circuit Court of Appeals reversed the decision; Fish and Wildlife can again release wolves into the New Mexico wild. **Meanwhile, the first-ever Mexican wolf pup has been born through artificial insemination, using frozen semen,** at a wildlife center in St. Louis. The technique may improve the species' genetic diversity over time, enhancing its chances for survival.

PAIGE BLANKENBUEHLER



A groundwater recharge facility for the Coachella Valley adds water imported from the Colorado River to the valley's main aquifer and prevents the land from sinking and damaging the surrounding infrastructure. BRENT STIRTON/GETTY IMAGES

Joshua Zaffos is an *HCN* correspondent in Fort Collins, Colorado. @jzaffos

THE LATEST

Backstory

Pallid sturgeon, declared endangered in 1990, can live for decades and reach 5 feet in length. Fewer than 125 are left in the Upper Missouri River Basin; they're believed to be genetically distinct and key to the species' survival. **Their reproduction is hampered by dams, though, and in 2015, environmental groups sued to demolish one on the Yellowstone River** that blocks 165 miles of crucial spawning habitat ("Can pallid sturgeon hang on in the overworked Missouri River?" *HCN*, 9/17/12). Federal agencies proposed building a new dam with a fish bypass channel as a compromise, but a U.S. district court judge blocked the project in 2015, pending review of the bypass channel's efficacy.

Followup

In April, the judge allowed the \$57 million dam to proceed. **However, the environmental review acknowledges that "there is no evidence" that sufficient numbers of sturgeon will use the bypass,** leaving the fate of the prehistoric fish in limbo.

EMILY BENSON



Pallid sturgeon
KATIE STEIGER-MEISTER/
USFWS



The Lowell Pad, where Extraction Oil & Gas plans a 42-well site, between Wildgrass and Anthem developments in Broomfield, Colorado.

TED WOOD/
THE STORY GROUP

Suburbanites reckon with arcane drilling law

On Colorado's Front Range, companies can extract oil and gas from private land — without homeowners' permission

BY MARK JAFFE

When Ann Marie Byers received a letter last June giving her 15 days to either accept an offer to lease the oil and gas rights underneath her suburban Colorado home or have the driller legally take the mineral rights anyway, she thought it was a scam.

"I didn't even know we had mineral rights," says Byers, a 42-year-old lawyer and mother of two, who lives in the Denver suburb of Broomfield. "The letter looked suspicious. There were errors and typos, and it asked for my Social Security number. I thought, 'They can't just take your mineral rights.'"

But the letter was no con. Under an arcane 82-year-old statute, an oil and gas operator can legally extract oil and gas from underneath someone else's land — even if that landowner refuses to lease. It's called "forced pooling."

"Pooling" is the term used to describe the aggregation of all the mineral rights in a designated drilling "unit." It becomes "forced" when the mineral right of an unwilling owner in the unit is, in essence,

condemned. As rising oil prices stimulate more drilling, hundreds of homeowners on Colorado's bustling Front Range are receiving letters giving them the choice of receiving a lease at a set royalty rate or of facing forced pooling.

Now, those Colorado residents are scrambling to figure out how to respond, and legislators are taking another look at the old statute. "To allow a corporation to take someone's property by force — it sounds like something we could hear about in Russia or China or Azerbaijan," says Kevin Kreeger, a Broomfield city councilman.

Pooling laws were instituted in the 1920s in response to the prevailing "rule of capture," which held that whoever drilled first owned the resource. Daniel Plainview, the main character in the 2007 film *There Will Be Blood*, explained it thus: "If you have a milkshake and I have a milkshake, and I have a straw. ... And my straw reaches across the room and I start to drink your milkshake. ... I drink it up!" Forced pooling statutes ensure that real-life Daniel Plainviews have to pay for that milkshake.

State regulators and industry officials say that forced-pooling rules are necessary for the orderly development of oil and

gas. Under rule of capture, drillers would sink as many wells as they could, with virtually no distance between them. That created a need for spacing rules. But spacing doesn't work unless all the minerals underneath the checkerboard of wells are pooled. Pooling also ensures that all the mineral-rights owners involved are compensated. Thirty-three states — all the major oil-producing states save California — have pooling laws.

But not all forced-pooling laws are the same. Colorado, which boasts cutting-edge rules on drilling, fracking-fluid disclosure and methane-emissions control, has an "extremely permissive" pooling rule, says Matt Sura, an attorney representing three communities in forced-pooling disputes. "Forced pooling is giving corporations the power of condemnation," Sura says. "Some operators use forced pooling as a gun to the head to force landowners to sign leases."

The recent flurry of protests is in part caused by drilling expansion into more developed areas with more fragmented land ownership, says Matt Lepore, the executive director of the Colorado Oil and Gas Conservation Commission. "You are sending out a lot of letters to lots of property owners, many who don't even know they own the mineral rights," he says. New horizontal drilling and fracking techniques, which enable wells to extend two miles or more, can also scoop up more landowners in a single project.

When Byers realized that forced pooling was real, she began organizing her neighbors in Broomfield's Wildgrass development, where homes with scenic mountain views sell for close to \$1 million. The Wildgrass Oil and Gas Committee was born.

Mark Jaffe has covered environmental and energy issues for *The Philadelphia Inquirer*, *Bloomberg News* and *The Denver Post*. [@bymarkjaffe](#)

Only 12 of the 510 homes in the development signed leases, Byers says. But that is enough to allow the driller — Denver-based Extraction Oil & Gas Co. — to seek a forced-pooling order; in fact, a single lease is sufficient.

When it became clear that there was no way to stop the pooling, Byers says, “we thought we should negotiate the best deal we could.” In a lease agreement, a property owner negotiates a royalty rate and possibly other considerations, such as well location. The company had offered a 15 percent royalty and a \$500 signing bonus.

Landowners who are forced to pool usually get a raw deal. There is no signing bonus, and the royalty rate is a flat 12.5 percent. In contrast, the going lease rate in Colorado is between 16 2/3 percent and 20 percent, says Lance Astrella, an attorney who represents landowners in lease agreements. That can add up to hundreds or even thousands of dollars per month more for the leaseholders, depending on how many rights are in the pool.

The force-pooled landowner gets only a fraction of the royalties until the costs of equipment and drilling are paid off, which can take years, since wells cost \$5 million to \$7 million apiece to drill. By the time the well has been paid off, its production is likely to have dropped considerably.

About 310 Wildgrass homeowners and 40 others from the adjoining Anthem development hired Sura to negotiate with Extraction, primarily in order to mitigate the drilling impacts. But when the city government found out that the number of wells Extraction planned to drill had jumped from 24 to 140, the possibility of a moratorium was raised. In response, Extraction has agreed to delay the project while the city reviews its oil and gas rules. A spokesman for the company, Brian Cain, declined to comment.

Then, in December, letters from the Denver-based Great Western Oil & Gas Co. began landing in mailboxes at the Highland Meadows Golf Community and neighboring developments in Windsor, 50 miles north of Broomfield. Residents were offered a lease with a 16 percent royalty rate minus production costs. Four neighborhoods filed a protest with the oil and gas commission, arguing that the approaching holidays gave them insufficient time to respond. The deadline was extended, allowing the homeowners a chance to organize. They eventually signed with another operator, Horizon Resources, for a 20 percent royalty. Horizon will access the oil and gas from a mile away.

“The process worked the way it should,” says Hal Writer, land manager

for Great Western. “When people asked for more time and had questions, we extended the deadline. We met with people in the neighborhoods and tried to answer their questions.”

In April, Rep. Mike Foote, D-Lafayette, and Rep. Dave Young, D-Greeley, representing Front Range districts facing drilling, filed a bill to update the forced pooling law.

The bill extends the time landowners have to respond to a forced pooling notices to 90 days from 35. It requires that forced pooling notices be in plain English and that the oil and gas commissions keep public records on how many people are being forced pooled.

“This is about transparency and due process” Foote says. Under pressure from industry lobbyists a provision requiring that an operator have leases for more than 50 percent of the drilling areas to be able to force pool was removed from the bill.

The bill passed the House 36-29 and went to the Republican-controlled Senate. All 28 Republicans in the House voted against it. Broomfield homeowner Byers believes that reform deserves bipartisan support. “This isn’t an environment or climate-change issue,” she says. “This is a property-rights issue. Both sides of the aisle should get that.” □

Mistrial in Bundy standoff case

Jury deadlocked over most charges against defendants

BY TAY WILES

In a stunning twist, the first of three federal trials involving the 2014 armed standoff between Nevada rancher Cliven Bundy and federal land managers ended in a mistrial. Todd Engel of Idaho and Gregory Burleson of Arizona were convicted of some charges, but the Las Vegas jury was hung on all other counts for them and fellow defendants Eric Parker, Steven Stewart, Scott Drexler and Ricky Lovelien.

On April 24, on the sixth day of deliberation, the jury told District Court Judge Gloria Navarro that they were “hopelessly deadlocked” on the remaining counts (10 for each defendant). Navarro declared a mistrial, with new proceedings scheduled to begin on June 26.

The second of the three trials will involve the standoff’s accused organizers: Cliven Bundy and his sons Ammon and Ryan, conservative blogger Pete Santilli and Army veteran Ryan Payne, also a key player in the 2016 occupation of Oregon’s Malheur National Wildlife Refuge. That

trial has now been postponed, with no dates set for it or the third trial, involving the Nevada standoff’s “mid-tier” participants.

The April 2014 events at Bundy Ranch, 75 miles northeast of Las Vegas, drew hundreds of anti-federal protesters furious over the government’s impoundment of Cliven Bundy’s cattle, which had been grazing illegally on public land for years. (According to the Bureau of Land Management, Bundy owes at least \$1 million in grazing fees.) BLM and National Park Service employees halted the operation to avoid a violent confrontation with armed protesters.

The standoff was just one skirmish in the longstanding war over control of the West’s public lands. Yet public-land management was not directly addressed in the trial, nor were the Bundys’ anti-government views, including a fringe interpretation of the U.S. Constitution that claims the federal government is not allowed to own land. “I wanted nothing to do with the Bundys and their fight with the federal government,” defense attorney Todd Leventhal told *High Country News*.



The lack of convictions after two months of proceedings is a blow to the prosecution, since the government usually wins federal cases. Some Bundyites, who view the trial as a referendum on federal land management, see the mistrial as a sliver of hope. “This is a total answer to (our) prayers,” said John Lamb of Bozeman, Montana, after hearing that Engel and Burleson were not convicted on all charges. Federal prosecutors now have two more months to hone their arguments for putting all 17 defendants behind bars. □

Bundy family supporters fly the American flag as cattle are released by the Bureau of Land Management after the standoff in 2014.

JASON BEAN/LAS VEGAS REVIEW-JOURNAL, VIA AP

Associate Editor Tay Wiles writes from Oakland, California. [@taywiles](#)



Steve DeAngelo, co-founder with his brother Andrew DeAngelo of Harborside Health Center in Oakland, California, says their dispensary handles more than \$20 million in cash annually. JAMES HOSKING

Public banking goes to pot

Can the cannabis industry help launch the nation's first public bank in nearly a century?

BY JEREMY LYBARGER

Last October, a couple from Philadelphia traveled to Sebastopol, California, a quiet outpost some 50 miles north of San Francisco, to buy pot. They'd arranged the deal beforehand, but at some point during the hourlong transaction, the mood soured. Gunfire shattered the mild night. When it was over, two men were dead, a woman was critically injured, and 100 pounds of marijuana and \$100,000 to \$200,000 in cash were reportedly missing. The killers remain at large.

Crime haunts the edges of the cannabis industry, as it does any underground economy. Sebastopol's local newspaper reports that seven of the 26 people murdered in Sonoma County since 2013 died during marijuana deals. "People get robbed all the time," says Andrew DeAngelo of Harborside, a dispensary in Oakland, California. Although 29 states and the District of Columbia have legalized marijuana in some form, it's still federally classified as a Schedule I drug alongside heroin and LSD. And that means, as *Last Week Tonight* host John Oliver noted in an early April show, that "legal marijuana businesses have struggled to get bank accounts, because at the federal level, they are still seen as criminal enterprises." Banks and credit card companies blacklist cannabis businesses. Many dispensary operators have no choice but to stash money in home safes bolted to the floor. Security guards are hired and surveillance cameras installed. Armored cars deliver tax payments in suitcases and duffel bags stuffed with cash, a public safety liability that Oakland City Councilwoman Rebecca Kaplan laments as "spectacularly stupid."

Now, Kaplan and activists in Oakland are inching toward a potential solution: a city-owned public bank that would service a chunk of California's \$7 billion cannabis industry and support the local economy without having to rely on Wall Street. The idea has recently packed community forums and sparked interest from neighboring Bay Area mayors. If it succeeds, Oakland will become the second place in America — and the first in nearly a century — to establish a public bank. Stacy Mitchell of the Institute for Local Self-Reliance, a community development nonprofit, predicts that "once one place does it, other places are going to follow

much more rapidly." The endgame is both a boon to the cannabis industry and a new economic model in which communities can call on local banks to fund infrastructure and low-interest loans.

The 98-year-old Bank of North Dakota is currently the country's sole public bank. It operates as an extension of the state itself — managed by the governor, attorney general and agriculture commissioner — with a \$4.3 billion loan portfolio and \$7.4 billion in assets. There are no branches or ATMs, since its aim is not to compete with local banks but to partner with them by expanding their lending capacities. The institution's annual reports read like socialist case studies: funding for schools, daycare, veterinary clinics, dairy farms, low-interest student loans and infrastructure projects. The bank has been an unlikely success in a conservative state. In 1997, for example, the Red River in Grand Forks flooded, triggering a fire and property losses totaling more than \$3.5 billion. The Bank of North Dakota, then led by future Republican Gov. John Hoeven, suspended mortgage and student loan payments for six months after the disaster — a courtesy almost no Wall Street behemoth would extend.

Interest in public banks has seesawed over the years, but it spiked after the 2008 financial crisis and subsequent Great Recession. Occupy Wall Street intensified grassroots campaigns for financial reform. In 2011, a California bill that would have authorized a task force to study the feasibility of a state-owned bank passed the legislature, only to be vetoed by Gov. Jerry Brown. More recently, activists in Santa Fe, Philadelphia and Vermont have rallied for public banking, and New Jersey Democratic gubernatorial candidate Phil Murphy has pitched a public bank in that state.

Marc Armstrong, former executive director of the Public Banking Institute, saw an opportunity to market public banks to cannabis businesses during the run-up to California's passage of Proposition 64 this past November, which legalized recreational use of marijuana. Armstrong argues that Oakland is a prime candidate for a public bank because it's a charter city awash in cannabis money. Once a public bank opens there, a regional network could follow that would be a blueprint for Colorado's \$2.4 billion cannabis economy and the \$1 billion-plus economies in Washington, Nevada and Oregon. Brian Vicente, executive director of Sen-

Jeremy Lybarger writes from San Francisco. His work has appeared in *Rolling Stone*, *Mother Jones* and other outlets. [@jeremilybarger](#)

sible Colorado, a nonprofit pushing cannabis reform, cites marijuana's \$3 billion economic impact in his state as one reason that a bank serving the industry would be "greeted with open arms."

"We make the case that this is an economic issue," Armstrong says, "and we can use states' rights arguments, which is what this is all about, because this is a constitutional matter." The Constitution is the reason why a public bank could accept cannabis deposits whereas a private bank cannot. Armstrong points to the 10th Amendment, which reserves for states any power not given to the federal government. In states where cannabis is legal, a public bank would also be a branch of the government and could invoke Article 10. The argument is actually wonkier than that, but as Armstrong notes, "If the state is silent on the matter, which they are in regards to public banks, there'd be no conflict" as to legality.

Besides being a constitutional matter, it's also one that could force the federal government to clarify financial regulations around cannabis. In 2013 and 2014, the departments of Justice and the Treasury respectively issued guidelines as to how banks should handle marijuana money. Joe Rogoway, an attorney in Santa Rosa who represents the cannabis industry, says that most banks found the compliance rules too "onerous" and spurned cannabis business altogether. He now advises clients to open multiple accounts at different banks so that if one gets shut down they have backups.

"(Banks) are leaving a tremendous amount of money on the table by not dealing with us," says Andrew DeAngelo of

Harborside, which pulls in more than \$20 million annually. He adds that because cannabis is still an all-cash economy, cities are tangled in a sort of catch-22. "Tax dollars are being spent one way or the other. You can either spend it with the police or you can spend it on a public bank and solve the problem."

Momentum behind public banks is surging, particularly given a White House determined to roll back environmental regulations, defund sanctuary cities and crack down on immigration. Communities across the country want banks to defend their values. On March 14, San Francisco's Board of Supervisors unanimously passed a resolution calling for the city to divest from financial institutions that bankroll the Dakota Access Pipeline. This follows similar divestments in Seattle, Washington, and Davis, California, as well as a national "Defund DAPL" campaign.

"Everybody, whatever their silo is, they see the potential benefit of the (public) bank," says Susan Harman, an activist who helped found Friends of the Public Bank of Oakland last October. Her group has received endorsements from the California Nurses Association, the Oakland Green Party and a local tenants' union, among others. "We're getting broad support because everyone can see that having control over our finances, instead of sending them off to Wall Street, will be a benefit."

If public banks are so appealing, why haven't more cities or states opened them? For one, the process can take years, with a long growth curve before the bank can build its capital base and make profitable loans. In addition, Wall Street isn't

keen to relax its stranglehold, and lobbyists for big banks do what they can to nix talk of public banking as a viable alternative. Finally, and perhaps most challenging, there's a lack of political will, especially in states like California, where the world's sixth-largest economy is humming. "We'll have to keep pushing it," says Kaplan. "Just because right now people are excited about it doesn't mean those who care about this issue can go to sleep."

But if another public bank is going to open anywhere in America, odds are it'll be in Oakland, which has historically taken the lead in cannabis policy. It was the first city in the state to permit and license dispensaries, and the first to pass a dedicated cannabis tax. Now, the city is considering a 10-week feasibility study to evaluate the costs and timeline of establishing a public bank there. Once that's complete, Harman hopes to start laying the groundwork for Oakland's public bank by January 2018. ("People laugh hysterically when I say that," she admits.)

"I think it's a big ask," says Dale Gieringer, an Oakland-based cannabis activist. "It would be a whole lot easier if Congress would simply reschedule marijuana." Nonetheless, he's cautiously optimistic that a public bank could be a work-around.

Constituents have a choice, says Kaplan: Either be depressed about a federal government that enables Wall Street's worst excesses, or push communities to take control of their own financial destiny. "Not everything needs to be in (Trump's) hands," she says. "It's a chance to put our money where our values are." □

A city-owned public bank ... would service a chunk of California's \$7 billion cannabis industry and support the local economy without having to rely on Wall Street.



An employee counts cash in a guarded room at Harborside Health Center, which calls itself the largest medical marijuana dispensary in the United States. JAMES HOSKING



Harborside Health Center co-founder Steve DeAngelo holds some of the cash revenue from the company's safe. JAMES HOSKING

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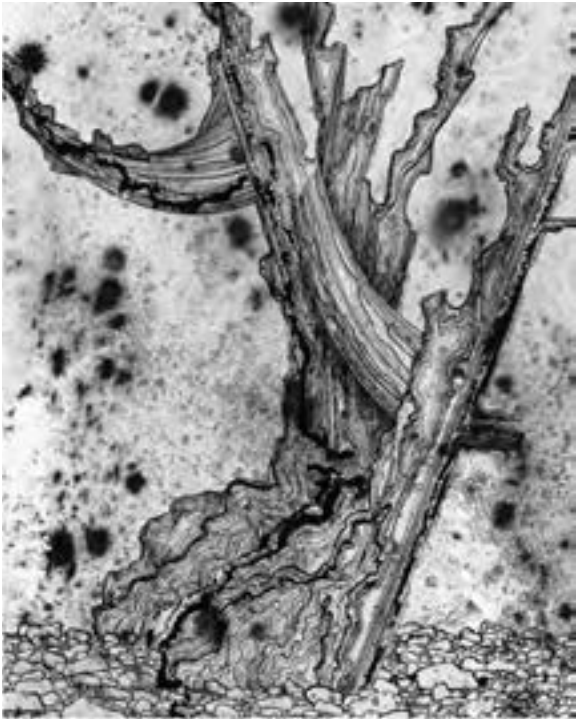
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TREE LINES

By Valerie P. Cohen and Michael P. Cohen. 80 pages, softcover: \$29.95. University of Nevada Press, 2017.

Swirls of black ink, intersected and framed by ruler-straight lines, create an intricately rendered abstraction of the grain of a bristlecone pine. *Tree Lines* explores the long lives of the high-altitude conifers of the dry eastern slopes of the Sierra Nevada and the Great Basin.

Each of the 28 drawings by Valerie Cohen collected here is accompanied by a vignette written by her husband, Michael Cohen. The Cohens often walk through the trees together, but each of them works in isolation, without any criticism or coaching. The end result is a harmonious juxtaposition of two different ways of interpreting the complex relationship between humans, the alpine environment and the tough old conifers that dwell there. "To see them now or even to walk among them seems to create them," Michael writes. "But this is not true. The trees say where to go." **EMILY BENSON**

Mercy, Mercy, Mercy (Bristlecone Pine) and The Abstract Truth.
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Puppies, personnel and pea pods

Snap pea seedlings are pushing up through the cool soil here in Paonia, *HCN's* headquarters, and Colorado's weather continues to undulate from warm to cold and back again. Meanwhile, our major gifts officer **Alyssa Pinkerton** has been busy, setting up fundraisers and meet-and-greets between donors and *HCN* staffers for May in Fort Collins and Durango in Colorado and Albuquerque, New Mexico. If you're in the area, look for those meet-ups, which are a great way to connect with your neighbors.

Visitors **Travis Pugh** and **Alicia Olson**, subscribers for the last three years, stopped by with their 2-and-1/2-month-old daughter **Edith** on a cloudy day in late April. The Denver-area family was headed to Utah to visit Canyonlands National Park and relatives near Salt Lake City. Future *HCN* reader (and who knows, future intern) Edith is already a master road-tripper: She slept all the way to Glenwood Springs despite the traffic. She did open her eyes to take a peep at the office while she was here, though. Happy trails, Edith, Alicia and Travis!

We'd like to give a warm welcome to **Christie Cantrell**, *HCN's* new Customer Service Manager. Christie comes to us from a digital marketing service in Carbondale. Although new to the *HCN* staff, Christie is no stranger to *HCN's* hometown, having lived here for the last nine years. Publisher **Paul Larmer** was one of the first people she met when she first moved to Paonia, and she's been interested in working for *HCN* ever since. Christie says she appreciates *HCN* for its important

coverage and in-depth reporting on Western issues, which she's familiar with as a Westerner herself. "I could not be more excited to join the *HCN* team for an opportunity to put my organizational skills to work for such a terrific publication," Christie says. Aside from expanding our subscription base and providing subscriber support, Christie is looking forward to warmer weather and spending time in the mountains fishing, hiking, photographing and enjoying bike rides in the North Fork Valley.

In other news, the *HCN* dog pack has expanded to include **Lefty** and **Porter**, the new pups of Editor-in-chief **Brian Calvert** and Assistant Editor **Paige Blankenbuehler**, respectively. Lefty comes to us via a local dog rescue service, and is part Australian shepherd and Catahoula cur. So far, he has shown great aptitude for being petted, patted and passed around. He's also good at napping, and barks in his sleep. And Porter, Paige's first pup, is an adopted 10-week-old coonhound from Meeker, Colorado. He's a mellow fellow who follows whatever scent his nose points him toward. He's excellent at "sit" and "stay" — better than most of us, in fact — and is just about the sweetest pup in town — besides *HCN's* other pups, of course.

In "Change Comes to Short Creek" (*HCN* 5/1/17), we misidentified Kristyn Decker as the head of Holding Out HELP. Decker founded the Sound Choices Coalition. The executive director of Holding Out HELP is Tonia Tewell. We regret the error.

—Anna V. Smith, for the staff



Christie Cantrell, left, joins *HCN* as the new customer service manager. New puppies Porter and Lefty are bringing some much-welcomed baby-mammal therapy to the office, right. BROOKE WARREN

Prison Town

How Adelanto, California, tied its fate to the booming immigration-incarceration economy

The moment Abdul Khan fled Ghana, his fate became intertwined with Adelanto, California, a struggling town on the edge of the Mojave Desert that has hitched itself to America's booming incarceration economy.

Of all the details Abdul Khan remembers of his flight from his home country, Ghana, perhaps the clearest is the glint of light on the machetes. He was 25 years old, and his textile business was failing. There were few jobs in his isolated village in Ghana's mountainous interior, and Khan had started working for two gay men, who ran an underground male prostitution business. In Ghana, homosexuality is not tolerated. You can be imprisoned for it, and you can be killed. When Khan's association became known, gossip began circulating that he, too, was gay. One day in the fall of 2014, his uncle sat him down for a talk. Renounce that friendship, his uncle said, or die. Khan had already heard rumors that his neighbors were looking to kill him before he "infected" their children, so he took his uncle's threat seriously. One night, as he lay awake and fearful in bed, a group of men brandishing machetes approached the house. Khan jumped out of bed and escaped through a window in the back.

Khan ran to his two gay friends, the only people he trusted. They told him that Ghana was no longer safe for him — that he should flee the country — and they scraped together money for him to buy a ticket to Ecuador, which did not require a tourist visa. On Nov. 6, 2014, Khan stepped off the plane in Quito, Ecuador's capital. Before he'd even left the airport a man told him about a group of migrants, mostly from Somalia, Bangladesh and Pakistan, who were trying to reach the United States, and advised him to join them. America, the man said, was the only country where he would have rights. He introduced Khan to a smuggler who would arrange his journey to the U.S. border. Khan paid the man \$800 of the \$1,000 he had with him and three days later was on a bus heading north.

He traveled almost 4,000 miles, passing through 10 countries via secret trails, in fishing boats and long canoes, through the uncharted jungle of the Darien Gap, through Panama, Central America and Mexico, to the border at Tijuana.

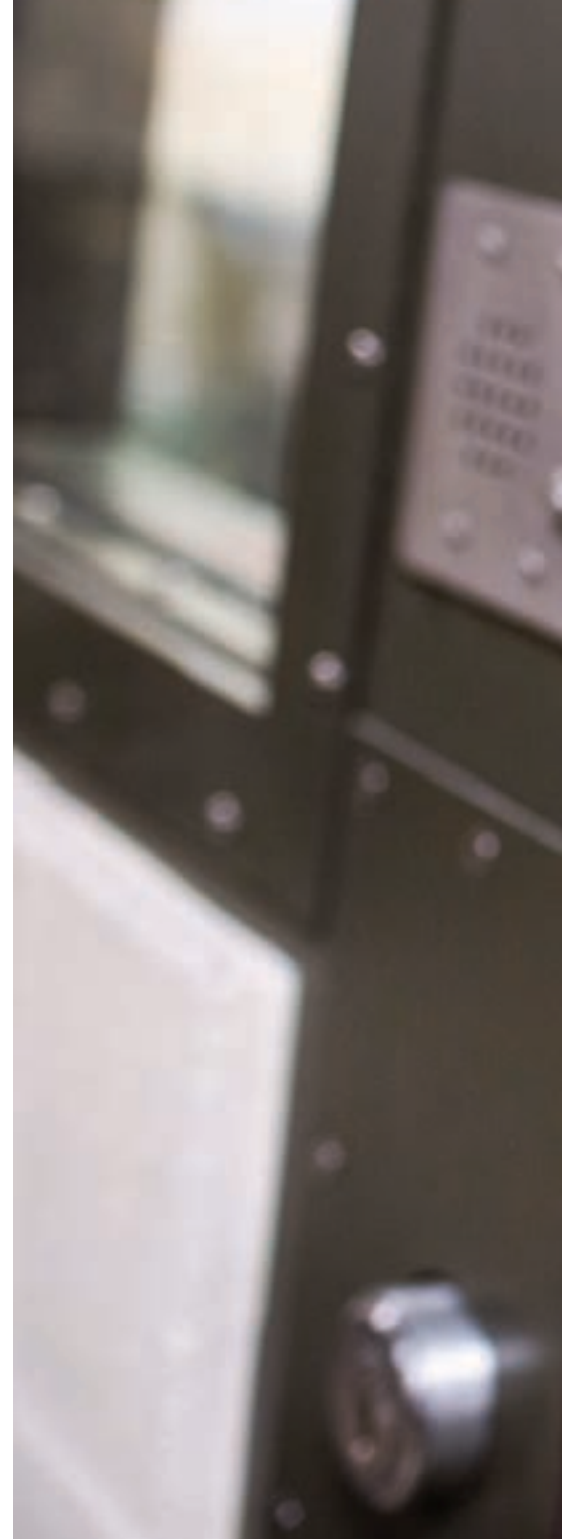
When border officials asked him why he had come to America, Khan told them he had fled Ghana and come to seek asylum. For months, all he had thought about was survival, but soon, he imagined, he would be on his way to New York, where he had family. Instead, Khan was detained. He spent his first night in the United States on a concrete floor in a cold, windowless room at the San Ysidro Port of Entry. For five days, he was passed from one detention center to the next. Finally, Khan was brought to the Adelanto Detention Facility, where he would spend the next 16 months.

Last December, almost two years later, I met Khan in New York, on a busy corner in the Bronx. Khan, whose name has been changed to protect his identity, wore dark jeans and Adidas sneakers, his boyish face framed by short curly hair and sideburns. Inside a Ghanaian restaurant, we shared a plate of fried plantains and beans, and he told me his story. It is a story that says much about the way the United States now treats asylum-seekers and immigrants, even before the Trump administration's vitriolic rhetoric and attempted bans. It tells of the rise of corporate detention centers, and their role in reshaping communities in rural areas, including the West. The moment Khan fled Ghana, his fate became intertwined with one such place: Adelanto, California, a struggling town on the edge of the Mojave Desert that has hitched itself to America's booming incarceration economy.

ADELANTO SITS 85 MILES northeast of Los Angeles, on a flat and featureless expanse

dotted with Joshua trees. Interstate 395 runs through the middle of town, out of Southern California and toward a line of distant ochre mountains. Trucks barrel up and down the roadway that serves as Adelanto's main thoroughfare, but there is no real center to the town. Instead, a haphazard collection of tract homes, trailer parks, warehouses, gas stations and fast-food restaurants spreads out over 56 square miles of desert. There are so many abandoned lots that the overwhelming impression is one of empty space.

Adelanto, a town of 32,000, is home to three prisons. This was not a coincidence. A century ago, orchards covered parts of the Mojave Desert. Farmers grew apples, pears, plums, grapes and alfalfa. Crops were watered by the Mojave River, which begins in the nearby San Bernardino Mountains; its water supply, farmers be-





lieved, was inexhaustible. At the western edge of the valley, past the town of Victorville, Earl Homes Richardson, an inventor and industrialist, envisioned a “City With Unlimited Possibilities,” where soldiers returning from the Great War could recuperate in the high desert’s clean dry air. Richardson sold one of his patents in 1915 and bought a parcel of land for \$75,000, hoping to subdivide it into one-acre plots and develop a master-planned community. But vets had no interest in living so far out in the desert, and Richardson’s vision never materialized. Instead, Adelanto grew up around the orchards, gaining some renown for its fruit and cider.

As agriculture intensified throughout the Victor Valley, excessive water use and a series of dry years shrank the Mojave River. Adelanto’s farmers struggled, and when the Great Depression hit, many

were forced out of business. The vacant land they left behind brought the U.S. military to the town’s northern edge in 1941. The Air Corps established an advanced flying school for World War II, and by 1950, George Air Force Base served as a training ground for fighter jets and bombers.

With the base came jobs and steady tax revenue, and in 1970, Adelanto incorporated, becoming the smallest city in San Bernardino County. It was almost wholly reliant on a military economy, but planners hoped for more: giant shopping malls, new homes, and new people to boost the tax base. By then, a few poultry ranches were all that remained of Adelanto’s agricultural past. In 1993, however, the base closed, due to congressional realignments and closures at the end of the Cold War. People packed up and left, and

property values cratered. Houses emptied and lawns died.

With the farms and base gone, Adelanto turned to prisons. During the 1980s, under increasingly stringent drug laws and harsh sentencing policies, demand for new prisons had grown. So had the belief that prisons could nourish economic development in rural communities. In California, the prison boom took off throughout the Central Valley and in the desert regions outside Los Angeles and San Diego, in poor rural towns with high black and Latino populations, too far from major metro areas for suburban growth. As Ruth Gilmore writes in *Golden Gulag*, the new prisons were sited on previously irrigated and cultivated land, taken out of production by the interrelated forces of “drought, debt, and development.”

An inmate is seen behind the locked door at the Adelanto Detention Facility. Formerly a California state prison, it is now owned by the private prison contractor GEO Group and houses nearly 2,000 detainees of U.S. Immigration and Customs Enforcement.

MAYA SUGARMAN, SOUTHERN CALIFORNIA PUBLIC RADIO. © 2016 SOUTHERN CALIFORNIA PUBLIC RADIO. USED WITH PERMISSION. ALL RIGHTS RESERVED. SCPR.ORG



Chain-link and razor wire surround the Adelanto Detention Facility East, one of two private facilities operated by the GEO Group in Adelanto, California, with beds contracted to Immigration and Customs Enforcement. The company is approved to build a third facility nearby. ANDREW CULLEN

GEO Group's initial contract with Immigration and Customs Enforcement included a 975-bed minimum occupancy rate guaranteeing GEO roughly \$40 million per year.

Adelanto got its first prison in 1991: the Adelanto Community Correctional Facility, which held inmates for the California Department of Corrections. In just 11 years, the number of prisoners in California had more than quadrupled.

That growth trend continued across rural America. In the 1960s and 1970s, about four new prisons were built in small towns and rural communities each year, according to the Agriculture Department's economic research service. During the 1980s, that figure increased to an annual average of 16. The following decade, the number jumped to 25, with a prison opening somewhere in rural America every 15 days.

By 2006, two more prisons were sited near or within Adelanto's town limits: the High Desert Detention Center, a county facility, and a gigantic federal complex on the border with the neighboring town of Victorville.

A few years later, the GEO Group, a Florida-based private prison company, offered to buy the old Adelanto Community Correctional Facility, for \$28 million. Adelanto happily accepted. But the company had no plans to run an ordinary jail. Instead, GEO had its eye on the latest iteration of America's prison boom, this one targeting immigrants. The county

jail would be repurposed into the Adelanto Detention Center, housing asylum-seekers and others caught in immigration bureaucracy. Adelanto's detainees are among the 40,000 people held every day in over 400 facilities nationwide by Immigration and Customs Enforcement, or ICE, pending a decision in their immigration cases or while awaiting deportation.

A fortified compound surrounded by high barbed-wire fencing, the Adelanto Detention Center sits at the end of a paved road near an industrial zone on the outskirts of Adelanto. When Khan was brought there on Dec. 11, 2014, it was the middle of the night, but he could still sense the confinement. He felt confused, he told me. This was not the America he had envisioned. Why, he wondered, was he being treated like a criminal?

The guards gave him a blue jumpsuit and escorted him to a windowless dormitory. Soon, he learned about the "segregation units" used to isolate unruly detainees. By law, immigrant detention facilities are not supposed to be punitive, but the official distinction between "detainees" and "prisoners" seemed largely meaningless. Guards conducted daily headcounts — usually five or six, each one up to an hour, during which time detainees had to remain in place by their beds. Khan had a

particularly hard time with the handcuffs, which guards placed around his ankles and wrists any time he was transported outside the facility for a court appointment. He had broken no laws and had not crossed the border illegally. He had simply asked for protection. He, like many of the other asylum-seekers held in the detention center, had passed a "credible fear" interview and had no criminal record. Back in Ghana, Khan had always imagined America as a country of freedom; a country where basic human rights were protected. *Why keep us locked up?* he thought. *If you don't want us, tell us to go back.*

CARI THOMAS IS THE FORMER MAYOR of Adelanto. She has long red hair and a no-nonsense air. An Adelanto transplant who was born in the L.A. suburbs, she saw the high desert as an affordable place to live — where land was cheap and a comfortable, middle-class life still in reach. Elected to city council in 2008, Thomas became mayor in 2010 and oversaw the GEO Group's arrival.

Adelanto had plenty of incentives to keep the detention center full, she told me last fall, over an egg breakfast at Denny's. After the base closed, the town struggled to replace the lost jobs and revenue. Houses that once sold for \$80,000-

\$100,000 plummeted to half their value. “It was horrible,” Thomas said. Throughout the mid- and late 1990s and early 2000s, money flowed into the town, as new housing developments were built — part of the nationwide housing boom. For a while, “things were good,” Thomas said. But it didn’t last. The 2008 recession hit, and Adelanto suffered another housing crash and another wave of sunken hopes.

Thomas had dreamed of turning Adelanto, with all its space, into a town like Rancho Cucamonga, an hour south, with its colossal malls and shining housing developments set against the San Gabriel Mountains. But the Adelanto she inherited was in dire financial straits. “It was a really bad time to get into politics,” Thomas said. She spent much of the next four years just trying to balance the budget.

In the wake of 9/11, private prison companies like GEO saw a lucrative business opportunity in the government’s immigration policies. Throughout rural Texas and the Southwest, new for-profit immigrant detention facilities sprang up, bolstered by more and more government contracts. Last year, for instance, GEO’s revenue was over \$2 billion, 18 percent of which came from ICE — the highest of any government contractor. To protect its profits, the industry developed a number of tactics, such as incorporating so-called “guaranteed minimums” into detention center contracts, ensuring the company gets paid for a certain number of beds, whether or not they’re filled.

This arrangement gives ICE an incentive to funnel immigrants into detention, regardless of their circumstances. A 2014 U.S. Government Accountability Office report on immigration detention recommended that ICE place detainees, whenever possible, in facilities with guaranteed minimums to provide the agency with “better assurance that it is cost-effectively managing detainee placement.” Because GEO has been the most successful at incorporating guaranteed minimums into its contracts, its facilities are often used to fill local quotas. According to emails obtained through a FOIA request from Detention Watch and the Center for Constitutional Rights, John P. Longshore, the former director of Denver’s ICE Field Office, wrote in 2013 that “we must ensure we are maximizing GEO beds for cost savings. ... We will be getting emails and calls from (ICE headquarters) if they note we are not making good use of those cheaper beds. They already call me enough on stuff.”

When the GEO Group offered to buy the Adelanto Community Correctional Facility in 2010, Thomas readily agreed. California was downsizing its overcrowded state prison system, which meant the town was about to lose its contract with the California Department of Corrections for the facility — a major source of revenue. Selling the facility balanced the city’s budget for the next five years and brought a few hundred new jobs to Adelanto, where unemployment was at 22

percent. “You can work at Stater Bros or Del Taco or Denny’s or in one of the few manufacturing places,” Thomas said. “But past that we had no employment.”

For GEO, the deal offered plenty of perks, too. The facility was already built — the company just needed bodies to fill it. As part of the sale agreement, the town was obliged to secure the government contracts that would bring immigrant detainees to the newly renamed Adelanto Detention Facility. ICE would then pay GEO money based on the number of prisoners held in the facility, with the town serving as the middleman. GEO quickly expanded the facility to hold 1,300 detainees. Its contract with ICE included a 975-bed minimum occupancy rate guaranteeing GEO roughly \$40 million per year.

According to documents obtained from a state records request filed by Community Initiatives for Visiting Immigrants in Confinement (CIVIC), Adelanto was only paid a flat yearly \$50,000 “administrative fee” from GEO for its initial 650 bed capacity, even though the company had expanded the facility to hold 1,300.

“I think it was a good deal,” Thomas said. Maybe they could have bargained for more, she added, but with the post-recession economy still wobbly, it was unlikely. Besides, where her constituency was concerned, the facility was a boon. “There’s zero impact to our residents other than an economic driver for employment,” she said. “Unless you drive that road, which nobody does, you don’t even know it’s there.”

A FEW DAYS AFTER ARRIVING at Adelanto, Khan met with an asylum officer who interviewed him about why he had fled Ghana and gave him a number of forms to fill out. He was hopeful he would be released while he waited for his court hearing, where he would present his story to an immigration judge. Under government policies, asylum seekers who pass their “credible fear” interview should be released from detention if their “identity is sufficiently established, the person poses neither a flight risk nor a danger to the community, and no additional factors weigh against release.”

Khan thought he had all the papers required to prove his identity. He had financial documents showing he had family who could support him and an uncle in New York to stay with. He assumed he would be released. Yet the ICE officers denied him parole, claiming that Khan’s documents were insufficient.

This kind of detention is not uncommon. According to a recent report by Human Rights First, ICE has increasingly refused parole for asylum seekers — even when they meet the official criteria. In 2012, 80 percent of asylum seekers who passed their credible fear interview were granted parole. By 2015, the number had dropped to 47 percent. The sharp drop coincided with an influx of migrants from Guatemala, El Salvador and Honduras,

many of them asylum-seekers. On June 20, 2014, Secretary of Homeland Security Jeh Johnson announced a plan to significantly expand detention capacity to detain and quickly deport Central Americans, in an attempt to “send a message” to those seeking asylum or attempting to cross the border illegally.

Caught up in that policy, Khan would have to prove his case from inside Adelanto. The prospect of indefinite detention terrified him, a fear made worse by the smaller indignities he endured. Sometimes, the meat served at mealtimes was moldy or rotten, compelling many detainees to buy much of their own food at the GEO-run commissary, but Khan had no money to spare. Often he barely ate. GEO guards barred him from praying with

Please see Adelanto, page 18

Former Adelanto Mayor Cari Thomas, top, cut the first deal to transform a former state prison into a privately run detention facility for ICE. Current Mayor Rich Kerr, center, elected on an anti-prison platform, now embraces them. Bottom, City Councilman John Woodard, center, tours a medical marijuana production facility — a new revenue stream the town is pursuing — being developed in Adelanto’s industrial area. ANDREW CULLEN



Key dates and policies that led to the expansion of the U.S. immigration detention apparatus



In a speech to Congress, President Richard Nixon officially declares a **"war on drugs,"** calling drug abuse "public enemy No. 1."

President Ronald Reagan signs the **Comprehensive Crime Control Act**, which eliminates the federal parole system, reinstates the federal death penalty and initiates the asset-forfeiture system.

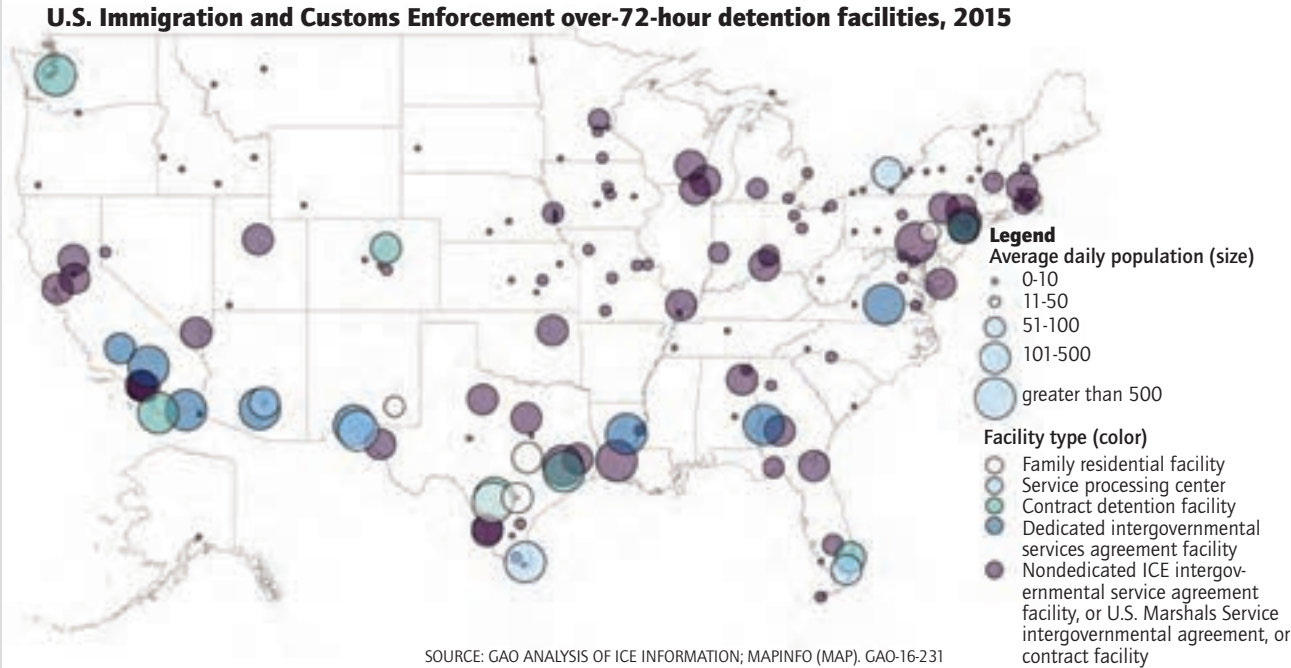
Washington state enacts the first **truth-in-sentencing law**. Others follow suit, after Reagan offers grants to states that restrict parole opportunities and require offenders to serve most of their sentences.

The Corrections Corporation of America (now CoreCivic) opens the world's **first private prison**, a federal immigrant detention center in Houston, Texas.



Reagan signs the **Anti-Drug Abuse Act**, which mandates harsh minimum sentences for drug offenses.

1971	1972	1973	1974	1975	1976	1977	1978	1979	1980	1981	1982	1983	1984	1985	1986	1987	1988	1989	1990	1991	1992	1993	1994
NIXON			FORD			CARTER			REAGAN								BUSH 1				CLINTON		



The Wackenhut Corrections Corporation (now the GEO Group) gets its **first contract** to run a federal immigration detention center in Aurora, Colorado.

President Bill Clinton signs the Illegal Immigration Reform and Responsibility Act, which calls for the **mandatory detention of immigrants with criminal convictions** and profoundly reduces how much discretion immigration judges can give cases.



The immigration-incarceration economy

Immigrant detention is now the fastest-growing form of incarceration in the United States, an increasingly lucrative business that costs taxpayers \$2 billion per year. Its roots reach back to the early 1980s, with then-President Ronald Reagan's "war on drugs" and "tough on crime" laws. The surging numbers of Central Americans fleeing civil war were an easy target for the Reagan administration's focus on illicit drug activity, helping justify the growing use of detention as a means of immigration enforcement.

Enforcement picked up steam during the Clinton administration. After 9/11, immigration policy shifted even further, from regulation to enforcement, punishment and deterrence. The result was a growing merger of the criminal justice and immigration systems.

Although politically popular, the criminalization strategy came under fire from those working inside the system. In 2008, Heather Williams, first assistant to the federal public defender of Arizona, told the *Washington Post* that the crackdown on immigrants not only diverted attention from real crimes, it offended basic notions of fairness. "(If U.S. citizens) were placed in any other country on the planet, and had to resolve a case in a day that could result in being deported and having a criminal record, we would be outraged, and so would our government," she said.

Former President Barack Obama claimed to go after "felons, not families," but his administration deported more people than any other. Undocumented immigrants without criminal records were detained and deported, after being stopped for minor traffic infractions such as broken taillights and jaywalking.

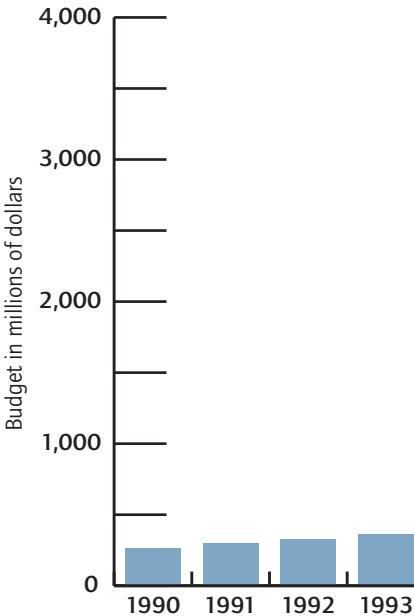
Throughout his campaign, Donald Trump exploited the growing divide between citizens and immigrants, pledging to build a wall along the Mexican border and escalate deportations. In April, Attorney General Jeff Sessions delivered a speech in Nogales, Arizona, announcing the government's renewed commitment to criminal immigration enforcement, referencing gangs and cartels that "flood our country with drugs." Referring to the Borderlands, he said: "On this sliver of land, is where we first take our stand."

Meanwhile, the boom in immigrant detention practices has increased demand for prison companies. Across the West, new detention facilities have emerged in struggling rural communities. Between 1993 and 2013, the industry's profits soared 500 percent, bolstered by heavy lobbying for increased Homeland Security spending.

"The federal market is being driven for the most part, as we've been discussing, by the need for criminal alien detention beds. That's being consistently funded," George Zoley, the chairman of the GEO Group told investors in 2008.

To protect their bottom line against changes in immigration laws, private prison companies began including guaranteed minimums in contracts with ICE and with local governments, requiring occupancy rates of 80 to 100 percent. Today, the government spends more than \$5 million per day on immigrant detention, while CoreCivic, formerly the Corrections Corporation of America, and GEO Group have doubled their revenues since 2005.

SARAH TORY



The Justice Department agencies charged with regulating immigration, including the INS, are replaced by three new ones: Immigration and Customs Enforcement (**ICE**), U.S. Citizenship and Immigration Services (**USCIS**) and Customs and Border Protection (**CPB**), all under the new Department of Homeland Security (**DHS**).

DHS Secretary Michael Chertoff ends “catch and release” policy, saying the agency will now detain immigrants until their deportation hearings. Previously, immigrants without criminal records were allowed to attend a hearing and then be released until their court date.



CUSTOMS AND BORDER PROTECTION

The Bush administration's **attempts at comprehensive immigration reform fail**. The legislation sought a compromise, allowing a path to legal status for current immigrants and a new temporary worker program, while strengthening border security and employer crackdowns.

The new **Secure Communities** program creates a national fingerprint database, allowing ICE to track people who are arrested for immigration violations. The program stems from post-9/11 efforts to increase collaboration between local law enforcement and the FBI to detect national security threats.

The Justice Department under President Barack Obama announces it is **ending its use of private prisons**. However, DHS Secretary Jeh Johnson says ICE will continue to contract with private prisons because of “fiscal considerations” and the need to handle “sudden increases in detention.”

94	1995	1996	1997	1998	1999	2000	2001	2002	2003	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017
							BUSH 2								OBAMA								TRUMP



THEMACHINESTOPS (ROBERT J. FISCH), CC VIA FLICKR

The 9/11 terrorist attacks bring sweeping changes to U.S. immigration policies, further criminalizing immigration-related offenses in the name of national security.

President George W. Bush's Intelligence Reform and Terrorism Prevention Act directs Homeland Security to **increase immigration detention capacity** by at least 8,000 beds each year from 2006 to 2010.

Bush launches Operation Streamline along the border, from the Rio Grande Valley to Yuma, Arizona. **CPB agents now must turn border crossers over to the U.S. Marshals Service** for prosecution, rather than returning Mexican immigrants to Mexico or releasing non-Mexican immigrants with an order to appear in court.

Sen. Robert Byrd, D-W.Va., chair of the Senate Appropriations Committee, introduces a measure into the DHS Appropriations Act of 2010, mandating that DHS “**maintain a level of not less than 33,400 detention beds**” for immigrant detention.

Efforts to eliminate the “bed quota” for immigrant detention fail and government funding to maintain 34,000 beds is reauthorized. In the accompanying report, the House Committee on Appropriations states its expectation for “ICE to vigorously enforce all immigration laws under its purview.”



CUSTOMS AND BORDER PROTECTION

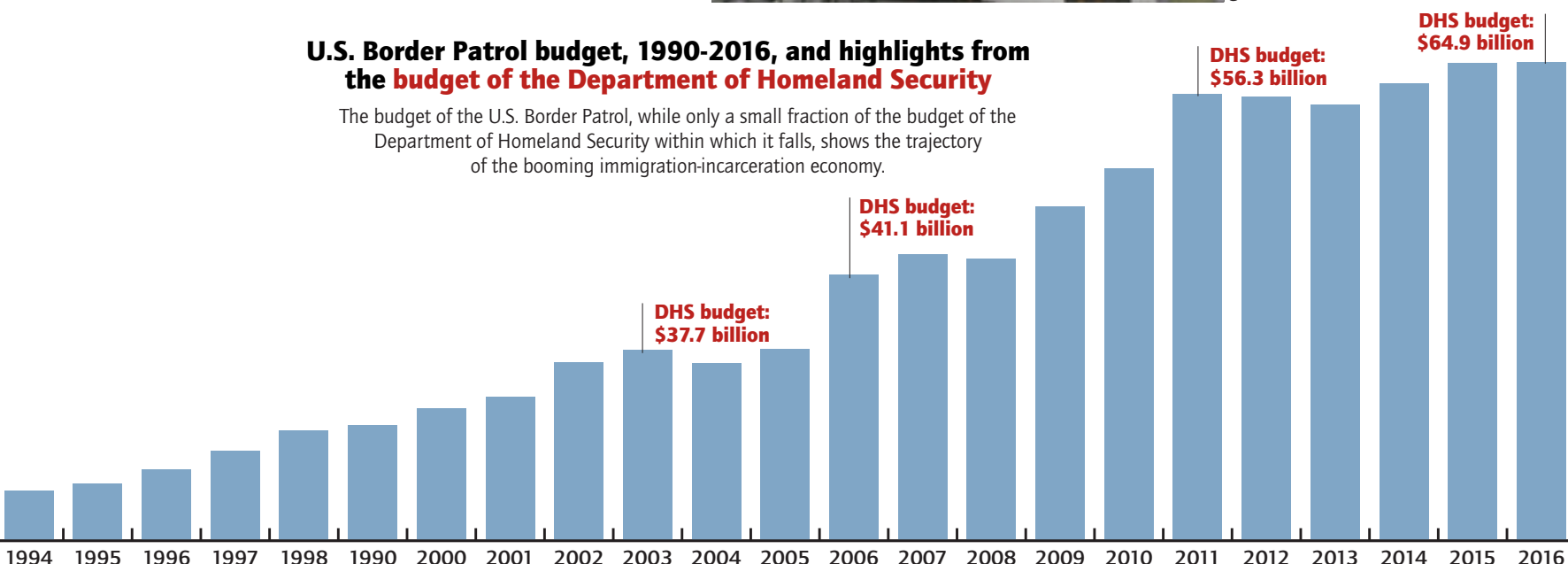
January 2017 President Donald Trump's executive order calls for the expansion of detention centers for undocumented immigrants near the border.

March A federal judge rules in favor of the first-ever class-action lawsuit filed on behalf of ICE detainees who were allegedly forced to work in slave-labor conditions at a GEO Group facility in Colorado.

April The Trump administration runs out of space to detain the increasing number of people caught up in its immigration crackdown. Hoping to entice more sheriffs and local officials to make their correctional facilities available for immigrant detention, DHS announces that it will loosen the standards for jails holding immigrants. Facilities are no longer required to notify immigration officials if a detainee spends two weeks or longer in solitary confinement. Nor are they required to check in on suicidal inmates every 15 minutes, or inform detainees, in languages they can understand, how to obtain medical care.

U.S. Border Patrol budget, 1990-2016, and highlights from the budget of the Department of Homeland Security

The budget of the U.S. Border Patrol, while only a small fraction of the budget of the Department of Homeland Security within which it falls, shows the trajectory of the booming immigration-incarceration economy.



DATA FROM THE AMERICAN IMMIGRATION COUNCIL, COMPILED FROM U.S. CUSTOMS AND BORDER PROTECTION, U.S. BORDER PATROL FISCAL YEAR BUDGET STATISTICS (FY 1990-FY 2015), JAN. 12, 2016.

Adelanto, continued from page 15

other Muslim inmates, denying him an important part of his religious practice, while Christian detainees were allowed to attend church three times per week. (GEO later changed its policy in response to complaints.) Khan felt powerless in the face of the discriminatory rules, but the threat of the segregation units, or SU, which mirror the solitary confinement cells used in prisons housing criminals, kept him in check. “You want to fight for your rights, but if you fight too hard, you will be put in the SU,” he said.

Sometimes, entire units experienced multi-day lockdowns as group punishment for one detainee’s actions. “If anything happens, they put us in our cells and locked the door,” Khan said. He learned not to attract attention, to keep his anger and despair in check, to pray alone.

Due to the backlog in immigration courts, which is now more than 500,000 cases long, asylum-seekers can remain in detention for months and sometimes years while their cases are processed. Khan felt like he existed outside the law. That is not entirely wrong: Unlike criminal defendants, for example, Khan had no right to a lawyer. Like most immigration detainees and asylum-seekers, he could not afford one and would have to represent himself.

For the next six months, Khan waited to find out when he would have his asylum hearing. He tried to bolster his case, researching the repression of homosexuality in Ghana and instances where people were imprisoned or killed for aligning themselves with gay and lesbian rights, but detainees could only use the law li-

brary for an hour a day and had no access to the internet, and so Khan struggled to find information. He wanted to call friends and family to see if they could help, but he couldn’t afford the high rates charged by TALTON Communications, the detention center’s for-profit phone service provider.

Khan needed to convince a judge that he met the legal definition of a refugee, which meant proving a “well-founded fear” of persecution due to “race, religion, nationality, membership in a particular social group or political opinion.”

Successful cases rely on numerous documents, such as newspaper articles and eyewitness testimonies about the alleged persecution, David Fagen, an immigration lawyer in LA, told me. For asylum-seekers held in remote rural detention centers like Adelanto, that can be especially hard, he said, due to the lack of access to pro bono lawyers and legal aid groups. “If you’re in detention, how are you going to get those things from Ghana? How are you going to get stuff interpreted — who will pay for that translation? How’s he supposed to communicate?”

Even if Khan had been able to pay for a lawyer, he would have had a hard time finding one. Immigration attorneys like Fagen rarely take cases involving Adelanto detainees because of the long commute; a round-trip drive from LA can take most of the day. And there’s a low chance of success. Adelanto’s six immigration judges are among the harshest in the country. The most lenient of them denies 75 percent of asylum cases, according to data compiled by researchers at Syracuse University. Among the two harshest, the denial rate is over 91 percent.

Early in his career, most of the immi-

grant detainees Fagen dealt with were in two facilities closer to downtown LA: the San Pedro Processing Center on Terminal Island and the Mira Loma Detention Center in Lancaster, run by the Los Angeles County Sheriff’s Department. The shorter drives meant he could take on more clients who were detained, he said.

Terminal shut down in 2014 after an internal review found the facility too unsafe, and ICE ended its contract for Mira Loma in 2012, transferring detainees to Adelanto, in part because the GEO contract was cheaper — even though it raised the costs for detainees.

For Fagen, Adelanto cases became too much to bear. “You feel bad,” he said, “because there’s nothing you can do to help them.”

THE PROCEEDS FROM ADELANTO’S GEO DEAL temporarily plugged the town deficit but failed to generate the substantial long-term revenue that the town needed. By 2014, Adelanto was once again contemplating bankruptcy. Around that time, a pair of private developers sought out Adelanto for another private prison.

The GEO Group, meanwhile, came forward with plans to expand the Adelanto Detention Facility to 1,940 beds, making it the largest immigrant detention facility in California. Thomas supported the expansion. The town was \$2.6 million in the red and needed the additional money that the additional detainees would bring in. As the November 2014 election approached, Richard Kerr, an upstart candidate, ran on a platform that included no new jails.

Kerr narrowly defeated Thomas and is still mayor today. Last fall, I met him at his office in the Adelanto City Hall, a stucco, faux Spanish-colonial style building overlooking the swath of empty desert where the GEO prisons sit. A former Marine, Kerr has a mustache and often wears jeans to work. He has, in his words, a “maverick” approach to city politics. Almost immediately following his election, the new mayor changed his mind about prisons. Once he found out he could renegotiate the per-bed rate that GEO paid Adelanto for each detainee held in its facilities, Kerr decided that the prisons were not as bad as they were often made out to be. “We need the money in the city,” he told me. According to the mayor, GEO had no problem paying a higher rate and Kerr appreciated the company’s donation to the rodeo and the local Christmas fund. GEO also paid the town \$175,000 to fund an additional police officer. “They’re 100 percent behind us,” he said.

The city council approved both the new prison and the GEO expansion. On July 1, 2015, the Adelanto Detention Facility got 640 more beds, specifically designed to house women detainees. The new beds would bring in an extra \$21 million for GEO. Along with another GEO-run state prison, there were over 9,000 people behind bars within a seven-mile radius of Adelanto — almost a third

In 2012, 80 percent of asylum seekers who passed their credible fear interview were granted parole. By 2015, the number had dropped to 47 percent.



Demonstrators with the Caravan Against Fear, a roving protest against U.S. immigration policies, gathered outside the Adelanto Detention Facility West in April. ANDREW CULLEN



of the town's total population.

Renegotiating the GEO contract, Kerr told me, means Adelanto now receives \$80,000 per month from GEO in bed tax for its two facilities — an eighth of the town's total budget.

Still, like most local officials I spoke with, Kerr would rather not dwell on Adelanto's prisons or the role they play in the town's economy. Instead, much of our hour-long conversation revolved around marijuana, which Kerr believes is on the cusp of transforming Adelanto from down-and-out prison town into a haven for California's nascent medical marijuana industry.

Driving through town, however, it's easy to see why no one on the current city council is ready to give up on the GEO Group and the money it pumps into Adelanto. On the south side, a few newer housing developments have cropped up, but north along the old main street, vacant lots separate many of the buildings. Farther down is a thrift store, then a liquor mart, then a neighborhood of faded one-story homes with dusty yards. Bartlett Avenue, named for the pears that once grew in Adelanto's orchards, dead-ends at the perimeter of the old Air Force base, where bits of trash flap on a barbed-wire fence. For Adelanto, prisons had been one of the town's few bright spots. Jessie Flores, Adelanto's economic development consultant, told me, "We view them as good neighbors, as assets to our community."

AFTER SIX MONTHS IN DETENTION, Khan still had no verdict on his case. He was eligible for a bond hearing, which offered him a chance at release, but the judge set the bond at \$28,000 — far beyond what Khan could afford. And so, like many detainees with limited means, he remained in Adelanto. A couple weeks later, in May 2015, the same judge, denied his asylum case, citing lack of evidence. Unless Khan appealed the decision, he would be deported.

Khan didn't see much point in appealing. He would have to continue his fight from inside Adelanto, a process that could take years and most likely would not yield any new evidence. For Khan, remaining in Adelanto seemed even worse than what he might face back in Ghana. It was better, he told the judge, for him to go back and face the consequences. "I'm ready for anything," he said.

Khan signed his deportation order and prepared for the worst. But before he could be released, immigration officials had to obtain a travel document from Ghana — essentially a guarantee that it would accept its citizen back once the U.S. had deported the person. In the meantime, Khan waited in Adelanto. Three months passed. An ICE officer told him they were still waiting to receive the documents from Ghana, which is among around two-dozen countries that often delay repatriating people from the U.S.

Almost a year into Khan's detention, in October 2015, he and a group of other

detainees wrote a letter to ICE, requesting to speak with Gabriel Valdez, the assistant field office director for Adelanto. They wanted to know why they were still locked up, even after many had signed their deportation orders. When their request went unacknowledged, Khan and more than 90 detainees — mostly asylum seekers — began refusing to eat. Theirs became the fourth hunger strike at U.S. immigration detention facilities in less than three weeks.

When ICE officials finally met with Khan and the other hunger-strikers, they tried to assure them that the government was still working on getting their travel documents. When the men asked for better food and more respect from the GEO guards, ICE officials were unresponsive. "You guys are refugees," they were told, according to Khan, "you can't ask for things."

The GEO Group referred all questions about the Adelanto Detention Facility to ICE. In an emailed response, an ICE representative wrote that detention facilities are subject to ICE's "rigorous detention standards." Those requirements, she added, "reflect the agency's commitment to maintain safe, secure and humane conditions for those in ICE custody."

Under a 2001 Supreme Court ruling, Khan could petition a judge for release from detention, but only if he could prove that his removal was not significantly likely to occur in the foreseeable future — a claim nearly impossible to prove, says

Abdul Khan, who fled New York out of fear of deportation after Donald Trump was sworn in, currently resides in Montreal. His name has been changed in this story to protect his identity.

NICOLAS GOUIN

Judy Rabinovitz, a lawyer with the American Civil Liberties Union, who worked on the 2001 case ruling that indefinite detention raised serious constitutional problems. “The government can just keep saying, ‘Oh, we’re working on it,’ so a lot of times people end up in detention much longer.”

For Khan, the endless waiting and uncertainty were a special kind of torment. “I stopped having hope,” he told me. “A lot of people give up.” This is a common phenomenon among asylum-seekers, even when they have a strong case, Rabinovitz says. “The effect of detention is that it makes people want to stop fighting.”

At least some immigration judges have questioned the escalating use of detention. Last October, a group of former immigration judges wrote to Johnson, the former secretary of Homeland Security, expressing concern that the expansion “comes at the expense of basic rights and due process.” People eligible for protection under U.S. and international laws are kept in jail-like facilities operated by private prison companies or local jails contracted by ICE. “A shocking 86 percent of immigrants in detention are unable to obtain legal representation,” the judges noted.

The system creates a deep sense of despair for the people trapped within it. During Khan’s detention, eight people attempted suicide, and 115 were placed on suicide watch. In 2015, CIVIC and the De-

tention Watch Network chronicled numerous reports of sexual assault and abuse. The poor medical care led to two deaths.

In late March of this year, a Nicaraguan man facing deportation hanged himself. Osmar Epifanio Gonzalez-Gadba, who did not have a criminal record, had been detained in Adelanto for three months. Three weeks later, Sergio Alonso Lopez, a 55-year-old Mexican detainee, began vomiting blood and later died in hospital. He had a history of serious medical issues and had been deported to Mexico three times previously.

ONE DAY LAST SPRING, one year, three months and three weeks into his detention, a guard told Khan he was being released under supervision. ICE had decided to let him out while the agency continued its efforts to get his travel documents. At first, Khan thought the guards were lying — but when the guards gave him back his old clothes and told him to change out of his prison uniform, he began to believe. On March 23, 2016, Khan was set free.

In the glare of the midday desert sun, a woman named Barbara Pamplone was waiting to pick him up. Pamplone, who is 79, regularly makes the four-hour round-trip drive from Los Angeles to visit with inmates as part of a volunteer group. She found Khan just as he was walking out from the Adelanto Detention Center’s blue doors. “He was just a really nice young

man,” she told me later. Pamplone makes something of a hobby picking up Adelanto detainees, and she never regrets it. “You take them to a Burger King and you could be taking them to the Hilton,” she said. “They’re walking on air. They’re free.”

One of Khan’s relatives, who lived in Canada, wired Pamplone \$300 — enough for a bus ticket to New York, where an uncle lived. Two days after his release, Khan said goodbye to Pamplone at the Greyhound station in LA, and set off east, to endure whatever fate had in store.

He rode out of the LA sprawl, through the San Gabriels and past Adelanto, a prison town in a struggle for survival, past the Mojave National Preserve and into the desert. He was astonished by its emptiness, vast and barren, the mountains rising in the distance. Peering through the bus window, Khan was captivated by their shape, like fortresses of sand, and the way they shimmered, reaching toward the sky, like something out of a dream. Though the memory of his incarceration would remain with Khan, coming back in flashes of pain and anger, it was over. Adelanto was behind him and the shining desert was ahead. It was hard to hold a grudge in all that open space. “I had never seen a place like that,” Khan told me. “It was ... I don’t know how to describe it,” he said, pausing to search for the right words. “It made me so happy. I was going to live my life.” □



Correspondent Sarah Tory writes from Paonia, Colorado. She covers Utah, environmental justice and water issues. [@tory_sarah](#)

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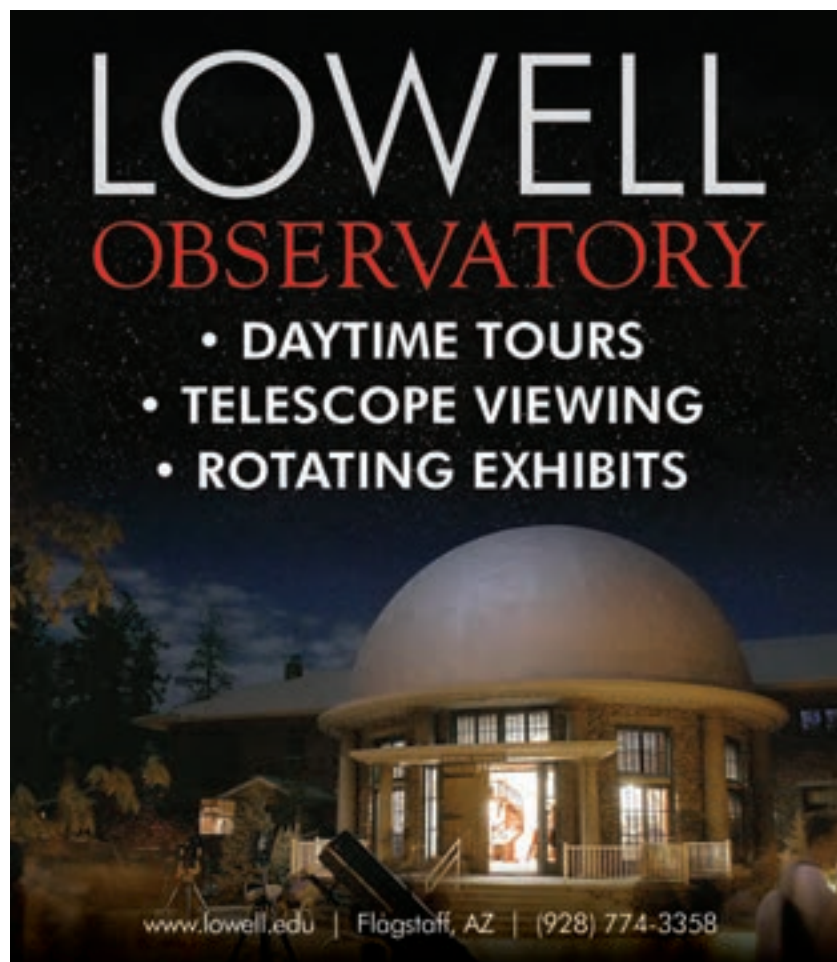
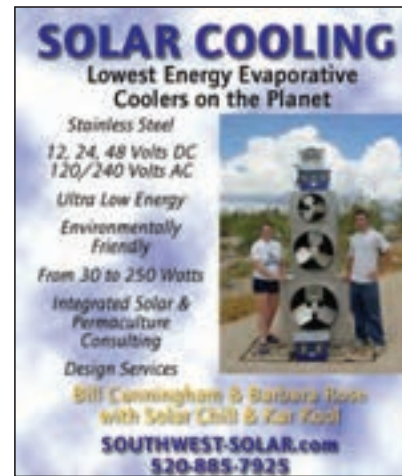
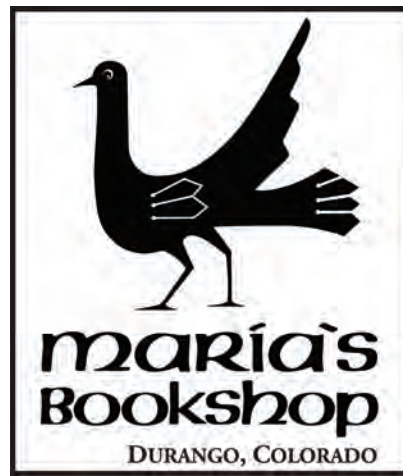
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Some of the national monuments under review include (from left) Bears Ears, Grand Staircase-Escalante, Canyons of the Ancients, Cascade-Siskiyou and Basin and Range.

BROOKE WARREN, BLM



Fact-checking Trump's Antiquities Act order

Trump and his supporters rely on dubious claims to attack national monuments



BY JONATHAN THOMPSON

"San Juan County is now the epicenter of a brutal battle over public lands," Orrin Hatch, Utah's senior senator, told the Senate on April 24, as he railed against then-President Barack Obama's end-of-term designation of the Bears Ears National Monument.

The Republican spoke in anticipation of President Donald Trump's order — announced two days later — to "review" all national monuments designated since 1996, starting with Bears Ears in rural San Juan County, Utah, and including dozens of other monuments established over the last 21 years. As he signed the executive order, Trump praised Hatch and parroted some of his points.

Hatch's speech was peppered with the type of Sagebrush Rebellion rhetoric that Utah politicians have spouted since Cal Black, the late San Juan County commissioner, threatened three decades ago to blow up ruins, bridges and trucks to retaliate against purported overreach by federal land managers. But Hatch also relied on outright falsehoods, or, in the nomenclature of the current administration, "alternative facts."

Let's fact-check the main arguments made by the monument's opponents, including Trump and Hatch.

Hatch: "As evidence of his disdain, President Obama issued this declaration with no open debate, no public hearing, and no vote in Congress."

Fact check: The notion that Obama sprang this "midnight monument" on the locals without warning or consultation is one of the main arguments against it. It's also false.

The public debate over preserving this remote corner of Canyon Country goes back to the 1930s. When it became clear that a dysfunctional Congress would never act, the Obama administration included Cedar Mesa, the heart of the Bears Ears Monument, on a 2010 list of sites for possible protection

under the Antiquities Act.

This launched informal and formal discussions on protecting the area, and prompted the birth of Utah Diné Bikéyah, a group of local Native Americans interested in preserving the ancestral homeland of numerous tribes. That effort grew into an intertribal coalition that in 2015 formally asked Obama to designate a 1.9 million acre monument.

The proposal was debated publicly and openly for months. The administration had numerous exchanges with Utah officials, revealed by documents obtained by the House Oversight Committee at the request of Utah congressmen. Finally, in July 2016, Interior Secretary Sally Jewell and several other top federal land-management officials traveled to southeastern Utah, met with local officials and held a public hearing in Bluff, attended by approximately 1,000 people.

Hatch: "In making this unilateral decision, our former president either failed to heed the concerns of San Juan County residents, or ignored them completely."

Fact check: This statement has two inaccuracies. First, not all local residents are opposed to the monument. Utah Diné Bikéyah was born locally, with a board made up of local Navajo and Ute Mountain Ute people; six of seven Navajo chapters in San Juan County officially support designation; and many residents spoke in favor of it at the Bluff hearing. In designating the monument, Obama was responding to their concerns as well as those of the five sovereign tribes in the coalition.

While a majority of the county's white residents and some Native Americans, particularly Mormons, oppose the monument, it's clear from the details of the final designation that their concerns were heeded as well. Obama left nearly 600,000 acres out of the original proposal, land that holds the potential for motorized recreation, uranium mining,

limestone quarrying and other natural resource development. Because many local Native Americans were worried about losing their ability to gather herbs, piñon nuts and firewood, the proclamation explicitly preserves such traditional uses.

Hatch: "The county schools have been strapped for cash ever since the Bears Ears Monument designation, because that designation rendered this land useless."

Fact check: This is an outright fabrication, involving state trust lands that are within the monument's boundaries. In Hatch's alternative universe, those lands were generating oodles of dollars for the local schools until the monument designation cut off the cash flow. That's not how it works. Proceeds from the lease or sale of state trust lands are distributed to public schools across the state, regardless of which county the lands are in. Those funds make up a tiny portion of a school district's overall budget — 1 percent for San Juan County in 2016 — and they weren't affected by the monument designation.

Nor did the designation render those lands "useless." The state retains control over the parcels. The Obama administration had wanted to negotiate a land swap, so that the monument wasn't checker-boarded with inholdings, but the state land board declined. Such an exchange is still possible under Trump; state schools got \$50 million from the feds as a result of the Grand Staircase-Escalante designation.

Ironically, the San Juan School District's website brags about the public lands and national parks and monuments within the county's borders.

Hatch: "President Obama ... lock(ed) away an entire quarter of San Juan County, an action that undermines the local economy."



Fact check: This is a widely used argument, that the designation enacts restrictions that will shut down a vibrant extraction economy within its boundaries. A variant of it — that the monument will hold a bevy of drill rigs at bay — is used to argue in favor of designation. Both claims are dubious.

San Juan County does rely on extractive industries; Resolute Natural Resources is its No. 1 taxpayer. But that oil driller operates in and around the Aneth Oil Field, well outside the monument's boundaries. The Daneros uranium mine was within the proposed boundaries, but it and a huge swath of nearby land, rich with paleontological resources, were left out of the final designation, as was most of Lime Ridge and the Raplee Anticline, where oil drilling historically occurred.

In recent years, a couple of exploratory drill rigs appeared on Cedar Mesa, but they were either on state land, or on already-leased federal land, and came up empty. The monument stops only new mineral leases, so existing drilling rights will not be affected. Advances in drilling technology or extremely high oil prices could someday make drilling, or even tar sands development, feasible within the monument, but there were no pending projects or leases when it was designated.

Grazing won't be affected at all. Not only does the proclamation preserve existing grazing leases; it also allows for new ones. The only extractive industry that might be hampered is the looting of ancient artifacts — but that is already illegal on federal land.

So no jobs will be lost and the economy won't be harmed. If anything, the tourist economy will get a boost, as monument status makes an already well-visited area more marketable. Indeed, even as Utah's politicians try to kill Bears Ears, the state tourism office is actively promoting the new monument.

Trump: "The previous administration bypassed the states to place over 265 million acres of land and water under federal control through the abuse of the monuments designation."

Fact check: Nope. All the land was already managed by federal land agencies. No private, state or other land was "seized" or "grabbed" in Bears Ears or other monuments. Nor did the locals lose any control over the land. In fact, in the case of Bears Ears, local tribes (meaning those with deep ancestral ties to the land in question) gained more control as high-level advisors to the

monument manager. While this was a lesser role than the co-management one the tribes hoped for, they have a louder voice now than they had without a monument.

Hatch: In designating over 1 million acres, Obama overstepped his authority under the Antiquities Act to set aside "the smallest area compatible with proper care and management of the objects to be protected."

Fact check: False. The monument is sizeable, but it also encompasses a landscape that is home to the physical remnants of over 12,000 years of human occupation — from a Clovis camp, to tens of thousands of Puebloan sites, to the Hole in the Rock Trail — as well as vast paleontological resources. Many of the landforms, including the Bears Ears and Comb Ridge, are spiritually significant to the Navajo, Ute and Pueblo people.

This cultural landscape stretches across the new monument and far beyond its borders. In fact, the smaller monument Obama ultimately proposed already excluded some significant sites. Further diminishment would result in more important antiquities being left out. If anything, the new monument is too small to include all of the relevant cultural landscape — it should stretch eastward to connect with Canyon of the Ancients National Monument in southwestern Colorado.

Whatever the review, spearheaded by Inte-

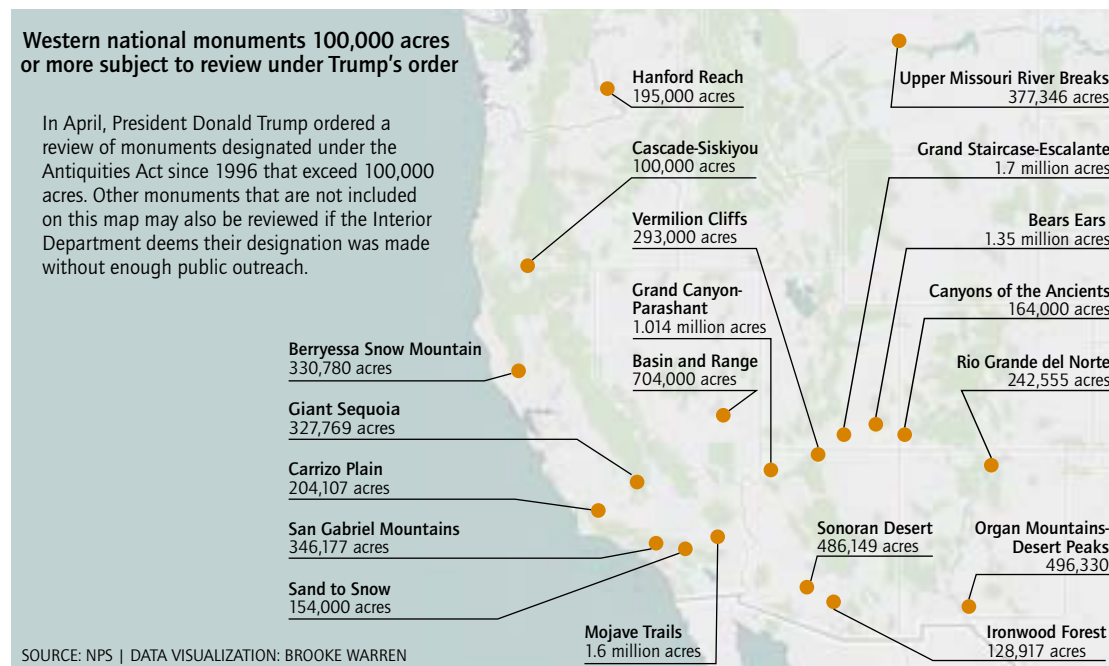
rior Secretary Ryan Zinke, comes up with, the Antiquities Act gives Trump the power to expand Bears Ears to encompass a greater cultural landscape. It does not, however, give him the power to abolish or significantly diminish the monument.

Back in 1938, when President Franklin Roosevelt pondered abolishing the Castle-Pinckney National Monument, created by Calvin Coolidge, his attorney general said it couldn't be done. "The grant of power to execute a trust," he wrote, "... by no means implies the further power to undo it when it has been completed." And in the 1970s, as it put together the Federal Land Policy and Management Act, Congress decreed that the secretary of the Interior can't "modify or revoke any withdrawal creating national monuments" under the Antiquities Act. Based on the legislative history and a report that accompanied the bill, legal scholars believe that this clause applies to the entire executive branch.

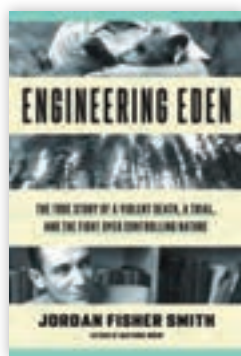
If Trump wants to abolish or shrink Bears Ears, he'll either have to convince Congress to do it, or commit himself to a brutal legal battle against the local tribes who fought so hard to get the monument designated. □

Jonathan Thompson is a contributing editor at High Country News. He is currently writing a book about the Gold King Mine spill.

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Bear interventions: The good, the bad, and the ugly



Engineering Eden: The True Story of a Violent Death, a Trial, and the Fight over Controlling Nature

Jordan Fisher Smith
370 pages,
hardcover: \$28.
Crown New York, 2016.



Speaking of Bears: The Bear Crisis and a Tale of Rewilding from Yosemite, Sequoia, and Other National Parks

Rachel Mazur
281 pages, softcover:
\$18.95.
Falcon Guides, 2015.

In June 1972, a young man from Alabama named Harry Walker visited Yellowstone. One night, returning to his illegal campsite near Old Faithful, he was mauled and partially eaten by a grizzly bear. His death marked a nadir for the National Park Service, which increasingly found itself having to kill grizzlies that came into conflict with humans, even though the species was in decline. Grizzly advocate Martha Shell, convinced that the agency was covering up its mismanagement, soon filed a lawsuit.

It didn't go well for the Park Service, which was found guilty of negligence. Forty years later, drawing on the trial transcripts, interviews and archival research, writer (and former park ranger) Jordan Fisher Smith brilliantly excavates an underlying debate that still plays out among wildlife managers: Should agencies manipulate wildlife and vegetation, choosing between species in wilderness — or should they do their best not to intervene, and let nature decide?

In *Engineering Eden: The True Story of a Violent Death, a Trial, and the Fight Over Controlling Nature*, Smith unearths a series of painful ironies. For one, the Park Service had already begun trying to wean grizzlies from human food in Yellowstone — an effort that inadvertently may have contributed to Walker's death. In 1967, a new supervising biologist named Glen Cole ordered the central Trout Creek garbage dump, where grizzly bears by the dozens fed, to be closed.

Frank and John Craighead, two far-sighted biologists deeply versed in Yellowstone wildlife, disagreed with the closure. They saw the dump as a bear magnet, drawing grizzlies away from campsites and cabins. In a 1967 report, they warned that if dumps were closed without alternate provisions for garbage-conditioned bears, “the net result could be tragic personal injury, costly damages, and a drastic reduction in the number of grizzlies.”

All of which came true, sadly. Not only was Walker's death attributed to the dump closure during the trial — although the ruling was overturned on appeal — but the grizzlies also suffered grievously. In 1970 alone, 57 grizzlies died “unnatural deaths” in Yellowstone, and by 1975, with just 136 bears left, the species was declared endangered.

The year after Walker was killed, photographer and activist Galen Rowell discovered a secret dumping ground for dozens of black bears euthanized by the Park Service in Yosemite. He found piles of decaying bear corpses beneath a roadside cliff, some hanging in trees, and he forced the Park Service to confront the “ghastly spectacle.”

Smith describes the ensuing reforma-



Tourists pull over to photograph a black bear in Yellowstone National Park in 1972.

JONATHAN S. BLAIR/GETTY

tion in wildlife management in Yellowstone and Yosemite with masterful grace, weaving together tales of fire, forestry and bears. He concludes by arguing that the choice between “full-on intervention” or “a healthy reticence to jump in and do things” all depends on the environment in question. “No natural law requires us to embrace one or the other.”

Bear biologist Rachel Mazur, who once supervised wildlife management in Sequoia and Kings Canyon national parks, also tells the story of a reformation in *Speaking of Bears*, her book on black bears in Yosemite and Sequoia, but she does so in a blunter voice. Regarding Rowell's discovery of the “ghastly spectacle,” she writes that “Rowell knew the park had been telling the public what it wanted to hear, that it was relocating all these bears to the high country to ‘live happily ever after,’ but here they were: dead.”

Rowell's pictures infuriated the public and threw Yosemite's management into a crisis. The park ultimately hired a full-time biologist to research the issue of “problem bears.” That biologist, Dave Graber, settled on a solution now familiar in parks around the country. Bears must not be allowed human food or garbage. There are no exceptions, and there are penalties for humans who violate the rules.

Mazur leavens her detailed history with lively characters, from a mule-packer who blew up a troublesome bear with dynamite, to a biologist who saved an over-tranquilized bear with mouth-to-snout respiration, to a ranger who screamed at campers careless with food.

In the end, Mazur comes back to the science. Using isotopic hair analysis of bear hides dating back to Yosemite National Park's early days, she shows that the no-human-food policy has worked. “The proportion of human food (in Yosemite) in bear diets decreased to the same level as it was in the early 1900s,” Mazur concludes, even though millions of people now visit the park each year, as opposed to a few thousand a century ago.

For the most part, Smith agrees that the right questions are now being asked. Both writers seem optimistic about the co-existence of bears and visitors in national parks. They point to an increasingly sophisticated understanding of bear behavior, along with more sensible policies and better techniques for dealing with problem bears — including targeted hazing. “Although no one has found a way to rewild individual bears, and hundreds of bears have tragically died along the way,” writes Mazur, “the greater population is wilder than it has been in decades.”

BY KIT STOLZ

The Collector

Portland, Oregon, is damp but mild, and the tents of homeless people tend to spring up in unclaimed crevices like mushrooms after rain. What we call the “homeless problem” has no single solution. There are so many stories. Ruth’s is one of them.

Ruth is not homeless. My friend lives in a quaint 19th century house not far from downtown. When her husband, Bob, died six years ago, he left a legacy — a basement full of legacy.

Bob saved everything — nuts and fossils and pebbles and shells and slices of wood and bits and pieces and big things and little things and parts of things. One day, a friend brought by an old trailer he thought maybe Bob could use. Bob could, and did: He parked it in the yard and used it to store more stuff. Almost anything might prove useful some day, so he hung onto it. He was a collector.

This wasn’t Ruth’s favorite thing about Bob, but she is a calm and tolerant woman. That’s her style.

She remembers when Bob collected Bill. She was weed-whacking the yard when a stranger came up and engaged her in conversation. He had a friend named Bill, and he thought Bill could be trusted to take care of her garden for her. She was only in her 80s then and plenty capable, but she gave him the opportunity. Bill worked hard and made a good impression. It was only a matter of days before he began eyeing the old trailer on the lot. Would it be OK, he ventured, if he were to sleep in it?

No, Bob said, and then *maybe*, and then *well*, *I guess we could run out an extension cord*, and then the bits and pieces moved out and Bill moved in, and the trailer got wired for electricity, and space was excavated in the basement of the house for Bill’s belongings. After all, he only came in to use the bathroom twice a day. “But you can’t drink,” Bob insisted, “and you can’t smoke.”

“I don’t drink,” Bill said, “but every time I try to quit smoking, I get into a fight.”

Well, no smoking near the house, then.

Bill had an eye. Before long, the garden was carved into sitting areas and niches, and the three massive old fig trees were woven into a picnic canopy, and Bill made an extraordinary picnic table out of found lumber. He hemmed the flowerbeds with entwined driftwood and laced the grounds with pebbled pathways and mosaics. The effect was magical.

A few years later, after Bob died, Bill was able to move a

little more stuff into the basement, but not too much. As Ruth explains it, he had already offered to share some of the basement space with Tom. *Tom?*

Oh. Tom was the fellow who used to live in his pickup truck in the neighbor’s driveway, with the neighbor’s consent. By the time Ruth showed me the basement, Tom had found new living arrangements, and his stuff was gone. “So that part over there, that’s probably Dennis’ stuff,” she explained. “I can tell; he’s neater.”

Dennis?

Ruth is a little unclear how she accumulated Dennis, but that’s his old Volvo parked at the curb. He sleeps in it and rises early to stow his bedding in the luggage rack on top. He’s only in his 60s, so he’s the muscle of the gardening operation. Bill, about 80, has lung cancer now. “Still smokes,” Ruth says, with a rare splinter of disapproval in her voice.

Anyway, Dennis has moved 200 yards of garden soil into the garden, and does any other heavy lifting that presents itself. He’s a math tutor, separated from his wife, and gets his two teenage boys twice a week. They usually go bicycling. The bikes are in the basement.

Thanks to Bill and Dennis and Sheryl, an expert gardener Bill found somewhere and recruited, Ruth’s vegetation is exuberant. A salvia the size of a Volkswagen squats in the north bed. Flowers romp among the corn, tomatoes, blueberries, strawberries and squash. It’s lush; it’s a triumph.

“People are always having picnics here,” Ruth says. “It’s so pretty, and we’ve got lots of corn.”

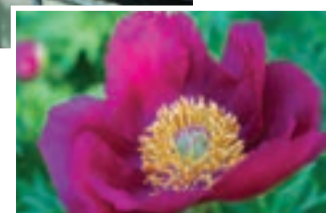
People? You mean, your friends?

“Sometimes,” she says. She’s not too particular about it. Whether they’re her friends or not is usually a matter of time.

It’s a destination picnic spot in the heart of the city, designed and maintained by what some people, although nobody here, might call the homeless. They know each other’s routines and glide through each other’s lives like fish through coral. Ruth, living alone at 92, appreciates the value of extra eyes watching over her.

Though she wouldn’t have been afraid in any case. That’s not her style. □

Murr Brewster is a retired letter carrier in Portland, Oregon. She writes a humor blog, Murrmurrs at murrbrewster.blogspot.com.



Ruth harvests asparagus and greens from her garden, far left, while Sheryl tends to plants in the greenhouse.
KATHARINE KIMBALL

HEARD AROUND THE WEST | BY BRIAN CALVERT

WYOMING

Thumbs up to the Front Street Tavern in Laramie, for its response to homophobic remarks by Republican Sen. Mike Enzi. Enzi, whose state is not yet famous for tolerance, publicly apologized after telling a group of high-schoolers: “I know a guy that wears a tutu and goes to the bars on Friday night and is always surprised that he gets in fights. Well, he kind of asks for it a little bit.” The Front Street Tavern responded by promoting a free well shot or Sparkle Pony (made with liqueurs of vanilla-raspberry and chocolate) for any guy wearing a tutu, part of a broader response, #LiveAndLetTutu. Thumbs down, however, to a more tone-deaf promotion: As scientists and other supporters of basic facts and empirical truth assembled for Earth Day, the Wind River Casino offered free bingo, cash prizes and the chance to drive away with “a hot new vehicle.” That’s right: Our winners celebrated the fragility of the Earth with the full-throated thrill of a new ATV. #LiveAndLetVroomVroom.

CALIFORNIA

A Pleistocene archaeological site where stone hammers and anvils were found alongside the remains of a mastodon may point toward human habitation of North America much earlier than previously thought. The Cerutti Mastodon site, in San Diego County, was excavated in 1992 and 1993, but some researchers believe the evidence indicates a possible human presence in SoCal around 130,000 years ago, according to a study just published in *Nature*. No one has been willing to speculate on whether killing and prepping an entire mastodon with rocks is any harder than a typical I-5 commute.

NEW MEXICO

A \$4,000 brass tabernacle stolen from the San Felipe de Neri Church in Albuquerque was returned, in answer to the prayers of pastor and parishioner alike. Donations gathered for its replacement will now be used to purchase security cameras — no doubt to the dismay of hymn-mumblers, pew snoozers and collection-



WYOMING **Confident in your masculinity? Wear a tutu.** LEAH TODD/SOLUTIONS JOURNALISM NETWORK

plate cheapskates. Meanwhile, the Archdiocese of Santa Fe has come out in favor of a proposed 2-cents-per-ounce soda tax after one of its priests, Rev. Adam Lee Ortega y Ortiz, urged his Facebook followers to vote “no” on it. The archdiocese called the tax “a good attempt to address the dire conditions in which our children are living.” No word on the Holy Father’s position, although a pro-sugar ad man once reportedly quipped: “If God had wanted Coca-Cola to have saccharin in it, He would have made it that way in the first place.”

IDAHO

A Democratic candidate for Idaho governor was booked and charged with a misdemeanor after he turned himself in for the theft of a cellphone. Troy Minton, 39, whose gubernatorial filing listed his address as a local homeless shelter, was once a plaintiff in a suit that overturned a Boise anti-panhandling law. Minton says his street-life experiences make him sympathetic to struggling Idahoans, the *Spokesman-Review* reports. With a year to go before the election, let’s hope this minor legal infraction doesn’t sink him. After all, plenty of politicians have been elected with far more dubious records.

ARIZONA

Researchers at the University of Arizona hope a

brain parasite might cure disease. *Toxoplasma gondii* infects the brains of 10 to 25 percent of Americans and could help us understand Alzheimer’s and other brain diseases. “Toxo” can be lethal for people with compromised immune systems, but mice infected with it showed resistance to the kind of central nervous inflammation found in stroke or Alzheimer’s patients. That’s all well and good, but here’s a twist: Toxo’s primary hosts are cats, and it is believed the parasite can change brain chemistry in mice, to lure them to cat urine, *Arizona Sonora News* reports. And it’s probably not just mice. What else can explain people’s affinity for cats?

OREGON

It’s been a weird, wet winter for much of the West, especially for long-sogged Oregonians. Astoria broke a 96-year-old record for consecutive precipitation days, 167, twice as much as Portland got. “The locals are used to it — kind of,” Sharleen Zuern, a volunteer with the Astoria-Warrenton Chamber of Commerce, told *OregonLive*. “But it’s been an extreme year, and people are pretty sick of it.” On the dry eastern side of the state, wheat farmers don’t give two spits about the rain. Tumbleweeds are their big problem. Farmers in Morrow County want to eradicate Russian thistle from 100,000 acres, but they’ll need the U.S. Department of Agriculture — and a cool \$7 million — for a “game changer,” the Associated Press reports. Good luck prying that money loose. President Donald Trump’s budget calls for a 21 percent decrease in USDA funding. However, according to *Politico*’s numbers, Trump could make three less trips to Mar-a-Lago, pass \$7 million to the farmers, and still have \$2 million of taxpayer money to spare. Just planting a seed, Mr. President.

WEB EXTRA For more from Heard around the West, see hcn.org.

Tips and photos of Western oddities are appreciated and often shared in this column. Write betsym@hcn.org or tag photos #heardaroundthewest on Instagram.



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“Are you excited to go on a ride along, ma’am?” an officer asks me. **We have an average of one police pursuit every evening in this neighborhood.**”

Contributing Editor Ruxandra Guidi, in her essay, “Police, la migra and the trouble with Trump,” from *Writers on the Range*, hcn.org/wotr. Disponible en español.