



Herman G. Honanie
CHAIRMAN

Alfred Lomahquahu, Jr.
VICE-CHAIRMAN

May 25, 2017

The Honorable Ryan Zinke
Secretary
United States Department of the Interior
Monument Review, MS-1530
1849 C Street NW
Washington, DC 20240

Dear Mr. Secretary,

On behalf of all *Hopisínom*, Hopi People, please accept the following comments in support of the Bears Ears National Monument in southeastern Utah, an area the Hopi consider within its ancestral land base. The Hopi Tribe vigorously opposes any effort by the Department of the Interior to rescind or modify the designation of Bears Ears as a national monument in accordance with the Antiquities Act.

As an initial matter, the Hopi Tribe is concerned that the short duration of the comment period on the Bears Ears National Monument, only fifteen days, severely limits public participation in this process. The Department spent years considering the establishment of the Bears Ears National Monument and a fifteen day comment period on deliberations over whether the Department should rescind or modify that designation is not sufficient. The Tribe is wary that the Department's short period of review may be a signal of a preordained outcome, especially when the other national monuments under review pursuant to Executive Order 13792 (Apr. 16, 2017) have substantially longer public comment periods.

Pursuant to the enclosed Hopi Tribal Council Resolution H-70-94, the Hopi Tribe claims cultural affiliation to ancestral Puebloan cultural groups in the Bears Ears National Monument ("Monument"). Furthermore, the Hopi Tribe supported the establishment of the Monument in the enclosed letter to the President and Utah Congressional delegation dated September 30, 2014, and participated in the Tribal Coalition that developed the proposal which led to the Monument Proclamation on December 28, 2016.

The Hopi Tribe has continually supported the identification and avoidance of prehistoric archaeological sites, and we consider the prehistoric archaeological sites of our ancestors to be "footprints" and Traditional Cultural Properties. Hopi migration is intimately associated with a sacred Covenant between the Hopi people and *Màasaw*, the Earth Guardian, in which the Hopi people made a solemn promise to protect the land by serving as stewards of the Earth. In accordance with this Covenant, some ancestral Hopi clans traveled through and settled on lands

in and around southeastern Utah during their long migration to *Tuuwanasavi*, the Earth Center on the Hopi Mesas.

The land is a testament of Hopi stewardship through thousands of years, manifested by the “footprints” of ancient villages, sacred springs, migration routes, pilgrimage trails, artifacts, petroglyphs, and the physical remains of *Hisatsinom*, People of Long Ago, all of which serve as proof that the Hopi people have fulfilled their Covenant. The Hopi ancestors buried in the area continue to inhabit the land, and they are intimately associated with the clouds that travel out across the countryside to release the moisture that sustains all life.

The Hopi footprints and clouds are part of a living, sacred landscape that nourishes and sustains Hopi identity. This landscape is steeped in cultural values and maintained through oral traditions, songs, ceremonial dances, pilgrimages, and stewardship. As a cultural landscape, the archaeological sites and physical terrain situates the Hopi people in time and space, providing a geographical conception of history and religion that connects the past, present and future. Hopi history and cultural values associated with ancestral sites and landscapes are deep and abiding.

We are fully aware that over the last few decades the archaeological, natural and geographic resources in the region have been severely impacted by looting, industrial development, and increased motorized and recreational access, including inappropriate all-terrain vehicle use. We have encouraged the Bureau of Land Management and United States Forest Service to enforce the laws protecting cultural and natural resources on public land in San Juan County. We have also encouraged those Federal agencies not to acquiesce to local political pressure to change trails where it is illegal to operate a motorized vehicle into legal motorized roads on public lands that contain irreplaceable cultural resources. The Monument designation will enable the Hopi Tribe to participate with the Federal agencies in the collaborative management of the Monument.

Regarding review of Bears Ears National Monument and Antiquities Act, we request continuing consultation with the Department of the Interior on a government-to-government basis. Given this opportunity to comment on the President’s Executive Order regarding Bears Ears National Monument, pursuant to our enclosed letter dated September 30, 2014, we hereby request expansion of the Monument to include Alkali Ridge and Montezuma Canyon.

The purpose of the Antiquities Act is to set aside and preserve places like the first National Monuments, including Devils Tower and the Grand Canyon, and now Bears Ears National Monument, for generations to come and protect them from destructive exploitation. These are federal lands and belong to all of us, including the first of us, the Hopi, Zuni, Ute and Navajo peoples. The President acted to protect this landscape, and we continue to urge the current President and Department of Interior to preserve this imperiled resource as a National Monument for time immemorial.

The Hopi Tribe is also a party to the comments on this review provided by the Bears Ears National Monument Tribal Commission, which describe how fully the designation of the Monument was vetted. The Hopi Tribe will be providing additional comments on the Antiquities Act and the Executive Order affecting other National Monuments subject to this review that contain the ruins, artifacts and human remains of our ancestors.

Secretary Ryan Zinke

May 25, 2017

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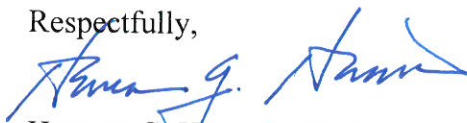
As a final matter, the Hopi Tribe questions the legal premise under which this review of national monuments is based because only Congress has the authority to rescind or modify a national monument designation under the Antiquities Act. The Property Clause of the United States Constitution vests in Congress the “power to dispose of and make all needful rules and regulations respecting [public property/lands].”¹ The President’s authority over public lands is subject to the terms and limitations of Congress’ delegation through statute.² When Congress does delegate power to the Executive Branch it must set out an intelligible principle to guide the exercise of executive discretion.³


Congress explicitly delegated to the President the authority to “declare by public proclamation” national monuments through the Antiquities Act.⁴ However, Congress did not provide the President with the power to rescind or alter designations already made under that same Act. Congress was clear when it delegated to the President only the authority to declare monuments under the Antiquities Act while not including the power to rescind or alter established national monuments in that same delegation. The absence of that authority in the delegation is clear evidence that it does not exist. This interpretation complies with Supreme Court precedent that any delegation of legislative power must be interpreted narrowly.⁵ Only Congress may alter the Bears Ears National Monument.

The Hopi Tribe urges the Department to take into consideration the immense amount of work that it, along with other stakeholders, conducted before President Obama designated Bears Ears a national monument. The current review ignores that immense portfolio of work and instead replaces it with a hastily constructed process that seems outcome-oriented. We urge the Department to recommend against any change to the Bears Ears National Monument.

Should you have any questions or need additional information, please contact Leigh Kuwanwisiwma, Bears Ears National Monument Commissioner, Hopi Tribe, at lkuwanwisiwma@hopi.nsn.us or 928-734-3611. Thank you for your consideration.

Respectfully,


Herman G. Honanie, Chairman
THE HOPI TRIBE


Alfred Lomahquahu, Jr., Vice Chairman
THE HOPI TRIBE

¹ See *Kleppe v. New Mexico*, 426 U.S. 529 (1976)

² *J.W. Hampton, Jr. & Co. v. United States*, 276 U.S. 394 (1940)

³ *Id.*

⁴ 54 U.S.C. § 320301(a)

⁵ *Misretta v. United States*, 488 U.S. 361, 373 n.7 (1989)

Senator Orin Hatch
104 Hart Senate Office Building
Washington, D.C. 20510

Senator John McCain
218 Russell Building
Washington, D.C. 20510

Senator Tom Udall
531 Hart Building
Washington, D.C. 20510

Representative Rob Bishop
123 Cannon Building
Washington, D.C. 20515

Representative Ben Ray Lujan
2231 Rayburn House Office Building
Washington, D.C. 20515

Representative Michelle Lujan-Grisham
214 Cannon House Building
Washington, D.C. 20515

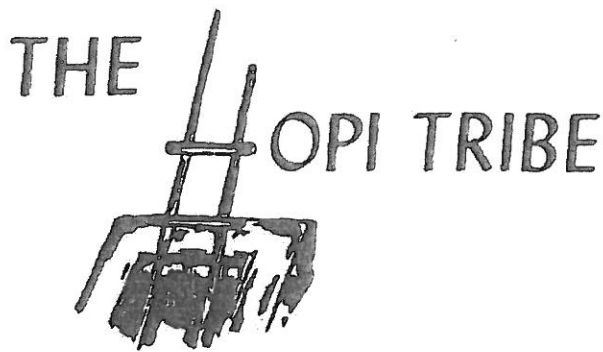
Senator Mike Lee
316A Hart Senate Office Building
Washington, D.C. 20510

Senator Jeff Flake
303 Hart Building
Washington, D.C. 20510

Senator Martin Heinrich
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Representative Jason Chaffetz
2236 Rayburn House Office Building
Washington, D.C. 20515

Representative Tom O'Halleran
126 Cannon House Office Building
Washington, D.C. 20515



Herman G. Honanie
CHAIRMAN

Alfred Lomahquahu Jr.
VICE-CHAIRMAN

September 30, 2014

President Barack Obama
The White House
1600 Pennsylvania Ave., NW
Washington, D.C.

Senator Orin Hatch
104 Hart Senate Office Building
Washington, D.C. 20510

Congressman Rob Bishop
123 Cannon Building
Washington, D.C. 20515

Congressman Jim Matheson
2211 Rayburn House Office Building
Washington, D.C. 20515

Senator Mike Lee
316 Hart Senate Office Building
Washington, D.C. 20510

Congressman Jason Chaffetz
2464 Rayburn House Office Building
Washington, D.C. 20515

Congressman Chris Stewart
323 Cannon House Office Building
Washington, D.C. 20515

Dear Mr. President, Senators and Congressmen,

On behalf of Hopi people, Hopisenom, I have the honor of providing the Hopi Tribe's support for the designation of the greater Cedar Mesa area including Alkali Ridge and Montezuma Canyon in southeastern Utah as a National Conservation Area or National Monument.

Pursuant to the enclosed Hopi Tribal Council Resolution H-70-94, the Hopi Tribe claims cultural affiliation to ancestral puebloan cultural groups in the greater Cedar Mesa area. The Hopi Cultural Preservation Office supports the identification and avoidance of prehistoric archaeological sites and Traditional Cultural Properties, and we consider the prehistoric archaeological sites of our ancestors to be "footprints" and Traditional Cultural Properties. Therefore, we appreciate your solicitation of our input and your efforts to address our concerns.

Hopi migration is intimately associated with a sacred Covenant between the Hopi people and *Màasaw*, the Earth Guardian, in which the Hopi people made a solemn promise to protect the land by serving as stewards of the Earth. In accordance with this Covenant, ancestral Hopi clans

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OFFICE OF GENERAL COUNSEL

traveled through and settled on the lands in and around southeastern Utah during their long migration to *Tuwamasavi*, the Earth Center on the Hopi Mesas.

The land is a testament of Hopi stewardship through thousands of years, manifested by the "footprints" of ancient villages, sacred springs, migration routes, pilgrimage trails, artifacts, petroglyphs, and the physical remains of buried *Hisatsinom*, the "People of Long Ago," all of which were intentionally left to mark the land as proof that the Hopi people have fulfilled their Covenant. The Hopi ancestors buried in the area continue to inhabit the land, and they are intimately associated with the clouds that travel out across the countryside to release the moisture that sustains all life.

The Hopi footprints and clouds are part of a living, sacred landscape that nourishes and sustains Hopi identity. This landscape is steeped in cultural values and maintained through oral traditions, songs, ceremonial dances, pilgrimages, and stewardship. As a cultural landscape, the archaeological sites and physical terrain situates the Hopi people in time and space, providing a geographical conception of history and religion that connects the past, present and future. These lands are part of our ancestral lands. Hopi history and cultural values associated with ancestral sites and landscapes are deep and abiding.

We are fully aware that over the last few decades the archaeological, natural and geographic resources in the region have been severely impacted by looting, federal management inadequacies, industrial development, and rampant visitation including increased motorized and recreational access and inappropriate all terrain vehicle use. We have encouraged the BLM to enforce the laws protecting cultural and natural resources on public land in San Juan County and not to acquiesce to local political and illegal actions by proposing to make illegal motorized trails into legal motorized roads on public lands that contain irreplaceable cultural resources that have been looted for over a Century and continue to be looted today.

We appreciate the Friends of Cedar Mesa and National Trust for Historic Preservation for working with the Hopi Tribe and other tribes culturally associated to the area to develop proposals that will enhance the protection of cultural landscapes and the sites within them in San Juan County.

And therefore, the Hopi Tribe and Hopi Cultural Preservation Office supports Congressional action to designate the greater Cedar Mesa area as a National Conservation Area. Based on over century of looting and grave robbing, we also support a provision in the designation that provides for protection and preservation and avoidance of our ancestor's human remains. Such a designation could accomplish the goal of prioritizing protection of cultural resources while also allowing flexibility in management of traditional Native American uses.

However, if Congress fails to act quickly to protect this landscape, we urge the President to be ready to preserve this imperiled resource as a National Monument before the end of this term.

Should you have any questions or need additional information, please contact Leigh Kuwanwisiwma, Director, Hopi Cultural Preservation Office at tkuwanwisiwma@hopi.nsn.us or 928-734-3611. Thank again you for your consideration.

Respectfully,


Herman G. Honanie, Chairman
THE HOPI TRIBE

HOPI TRIBAL COUNCIL
RESOLUTION
H-70-94

WHEREAS, Hopi philosophy and teachings provide a way to actively participate in the decision-making process within the dominant society as this knowledge teach respect for the deceased, the respect for archaeological sites and the respect for its past; and

WHEREAS, NAGPRA, through an administrative process; provides a mechanism to address specific Hopi cultural concerns through the negotiations and enactment of memorandum of agreements and memorandum of understandings; and

WHEREAS, the Hopi Tribal Council, since 1989; has supported the Hopi Cultural Preservation Office which has represented tribal interests on federal and state sponsored projects.

~~NOW THEREFORE BE IT RESOLVED~~ by the Hopi Tribal Council that it hereby reiterates its constitutional resolve to protect the cultural interests of the villages, clans, and societies on matters related to the intent of NAGPRA.

BE IT FURTHER RESOLVED by the Hopi Tribal Council that it hereby declares its formal cultural affinity and affiliation with the Hisatsinom (anasazi), Fremont, Mogollon, Sinaguan, Salado, Mimbres, Hohokam and Cohonino cultural groups.

BE IT FURTHER RESOLVED by the Hopi Tribal Council that it further declares it formal cultural affinity and affiliation with the Basketmaker, Archaic and Paleo-Indian phases of human habitation.

HOPI TRIBAL COUNCIL
RESOLUTION
H-70-94

BE IT FURTHER RESOLVED by the Hopi Tribal Council that it recognizes the significance and importance of NAGPRA and further state its direct support to the villages, clans, and societies whose responsibility it is to fulfill the intent of this law.

BE IT FURTHER RESOLVED by the Hopi Tribal Council that it authorizes the Hopi Cultural Preservation Office to exercise administrative responsibilities to negotiate and enter into agreements as necessary to address the repatriation of sacred objects, objects of cultural patrimony, human remains and funerary objects and issues dealing with the inadvertent discovery and disturbance of graves and further declares its interests into cultural artifacts and human remains which were collected from the Hopi reservation and those sites within the cultural boundaries described above and which have been exchanged, traded or sold to foreign museums or private individuals by U.S. museums and other entities subject to NAGPRA.

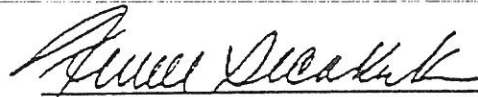
BE IT FURTHER RESOLVED by the Hopi Tribal Council that archival records, including field notes, audio tapes, video tapes, photographs; which describe and depict esoteric ritual, ceremonial and religious knowledge, be placed under restriction by museums and other repositories for public access and hereby are declared to be the cultural property of the Hopi people.

HOPI TRIBAL COUNCIL
RESOLUTION
H-70-94

BE IT FINALLY RESOLVED by the Hopi Tribal Council that it recognizes the key role of villages, clans, and religious societies in this effort and encourage their direct involvement in the consultation and repatriation process.

C E R T I F I C A T I O N

The foregoing resolution was duly adopted by the Hopi Tribal Council on May 23, 1994, at a meeting at which a quorum was present with a vote of 7 in favor, 3 opposed, 1 abstaining (Chairman presiding and not voting) pursuant to the authority vested in the Hopi Tribal Council by Section 1(a)(k) of Article VI of the Hopi Tribal Constitution and By-Laws of the Hopi Tribe of Arizona, as ratified by the Tribe on October 24, 1936, and approved by the Secretary of the Interior on December 19, 1936, pursuant to Section 16 of the Act of June 18, 1934. Said resolution is effective as of the date of adoption and does not require Secretarial approval.



Ferrell Secakuku, Chairman
Hopi Tribal Council

ATTEST:



Mary A. Felter, Tribal Secretary
Hopi Tribal Council