

**National Monument Review
Department of the Interior
1849 C St. NW
Washington, DC 20240**

**COMMENTS OF
THE HOPI TRIBE, NAVAJO NATION,
UTE MOUNTAIN UTE TRIBE,
UTE INDIAN TRIBE, AND ZUNI PUEBLO**

May 25, 2017

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Introduction

The creation of the Bears Ears National Monument represents a landmark in the long history of the American public lands system. It is also a notable event in our Tribal histories. Together, we five Tribes took the lead in making this Monument a reality. We conceived of this Monument, helped build overwhelming support for it locally and nationally, and carried the many justifications for it to Washington, DC. We earned this Monument every step of the way. It was well worth it, but it required a huge amount of work.

For us, Bears Ears is a homeland. It always has been and still is. The culture is everywhere. The canyons and forests hold many of our stories. Family gatherings, dances, and ceremonies are held at special places within Bears Ears. People go to Bears Ears to gather roots, berries, piñon nuts, weaving materials, and medicines. We go for healing. Stone cliff-dwellings and trails, testaments to the Old People, have survived thousands of years of wear and weather. Our ancestors are buried there, and we can hear their songs and prayers on every mesa and in every canyon.

Attempting to eliminate or reduce the boundaries of this Monument would be wrong on every count. Such action would be illegal, beyond the reach of presidential authority. Bears Ears enjoys overwhelming popularity nationally—and extensive and passionate support in the State of Utah as well. It would be a travesty to leave this landscape vulnerable to uranium and fossil-fuel mining, and excessive off-road vehicle use. Additionally, there has been ghastly looting and grave robbing that continues to this day. This was a major impetus for the Monument status. Citizens of America and the world would lose the opportunity to enjoy the wonders of one of the most remote and wondrous landscapes found anywhere. They would lose, as well, the opportunity for Bears Ears to become home to a world-class institute on indigenous Traditional Knowledge.

The radical idea of breaking up Bears Ears National Monument would be a slap in the face to the members of our Tribes and an affront to Indian people all across the country. We did not bring forth grievances. We brought a solution: the permanent protection of a great natural and cultural landscape. When the President of the United States created the Monument, he accepted our solution and promised that the lands within the Monument would be protected for us and the generations that come after us. Bears Ears is too precious a place, and our cultures and values too dignified and worthy, to backtrack on the promises made in the Presidential Proclamation.

The Nature and Validity of This Review of Monument Designations

On April 26, 2017, President Trump called for an unprecedented review of national monument designations made since January 1, 1996, where the designation covers more than 100,000 acres, or where the Secretary of Interior determines that the designation or expansion was made without adequate public outreach or coordination with relevant stakeholders. The review is purportedly to determine whether the designations conform to the objectives of the Antiquities Act. However, there is no statute authorizing any such review of monuments, nor statutory authority for any public comment period, and certainly no authority—statutory or otherwise—to diminish or revoke any monument. Any such presidential action would be *ultra vires* and unconstitutional. Therefore, although we have no choice but to respond, the public process created by this order is unauthorized and void.

Pursuant to President Trump's executive order, the Department of the Interior is reviewing monument designations and seeking comments as part of the review. 82 Fed. Reg. 22016 (May 11, 2017). The Secretary is purportedly considering several factors in his review. *See* 82 Fed. Reg. 20429-20430 (May 1, 2017). We are confused by the inclusion of factors outside of the statutory text of the Antiquities Act, as they are irrelevant to whether or not Bears Ears was properly

designated. As such, any recommendation by the Secretary to the President that is based on information outside the scope or authority of the Secretary or President under the Antiquities Act would be improper. The President has authority to designate national monuments, but does not have authority to eliminate, shrink, or move the boundaries of them.

As will be seen below, Bears Ears easily fits within the objectives of the Antiquities Act, and was the product of extensive public outreach, coordination with relevant stakeholders, and substantive research.

Bears Ears: A Tribal Homeland Since Time Immemorial

Our Tribes came to the Bears Ears landscape at different times. Some of us have been there forever, and some came later. We inhabited, hunted, gathered, prayed, and built civilizations. Our presence, much in evidence today, covered the whole region and is manifested in migration routes, ancient roads, great houses, villages, granaries, hogans, wickiups, sweat lodges, corrals, petroglyphs and pictographs, tipi rings, and shade houses. Bears Ears holds more than 100,000 Native American cultural sites and is widely recognized as one of the world's premier areas for archaeological resources.

By the mid-19th century, the United States became determined to open the American Southwest to homesteading. This meant moving Indian people off many traditional lands, including Bears Ears. Utes and Navajos were force-marched to reservations. For the Navajo, this was the Long Walk to Bosque Redondo in New Mexico. In particular, the White Canyon region of Bears Ears remains a significant historical site because of its many *Nahonidzho*, or escaping places, used by Navajos to protect themselves from the soldiers. The Zuni and Hopi were spared the violence of the forced removal because they had by this time relocated to their current pueblos to the south and southeast.

For generations, federal policy required Indian people to remain on their reservations and pueblos. The sense of homeland and the ancestors, however, was too strong. People avoided their federal overseers and found ways to return to Bears Ears for hunting, gathering, and ceremonies. In the late 19th and early 20th centuries, as federal policy relented, the non-Indian residents of San Juan County regularly forced Native Americans out of Bears Ears, sometimes violently. Yet our people continued to find ways to return.

As Tribes became more active after World War II, we began talking about Bears Ears. The looting and grave robbing had been intensifying ever since the 1890s, causing widespread destruction. In 1968, Robert Kennedy came to the Navajo reservation during his presidential campaign. He held a meeting in Bluff and Navajo people urged him to protect the Ancient Puebloan villages and other archaeological resources. Given the importance of this area to us and the nation, it is imperative that it be protected.

The Origins of the Monument: Defining the Boundaries of the Cultural Landscape

The push for Bears Ears began in earnest in 2010 with the creation of the grassroots non-profit organization, Utah Diné Bikéyah (UDB). UDB was formed with a primary objective of protecting Bears Ears. Looking back, we can see that the formation of UDB was an important step on the road to the Bears Ears National Monument.

Early on, UDB set out on a project that was ambitious in the extreme. People were already discussing the possibility of creating a wilderness area, national park, national monument, or other appropriate classification. UDB defined its goal as establishing conclusively the proper boundaries, defined scientifically, culturally, and historically, necessary to protect the Bears Ears homeland. After much deliberation, it settled upon a methodology, one which would require a prodigious amount of work. The interdisciplinary effort was based on thorough ethnographic

research featuring an intensive interviewing regime; research by academic experts in ecology, biology, anthropology, archaeology, and public policy; Traditional Knowledge; extensive data on wildlife species obtained from Utah state wildlife officials; and data analysis.

The ethnographic data resulted in sophisticated and highly reliable cultural mapping. *See* generally Bears Ears Inter-Tribal Coalition, *Protecting the Whole Bears Ears Landscape: A Call to Honor the Full Cultural and Ecological Boundaries* (2016). Seventy cultural interviews were conducted by a Navajo traditionalist fluent in English and the Diné languages and possessing ethnographic training. The resulting ethnographic data was captured and organized on a fine scale. Maps were then prepared using that information to show why 1.9 million acres should be set aside as a cultural landscape.

This ethnographic mapping process benefited from Traditional Knowledge, which is increasingly recognized by western sciences and scholarship and used by federal agencies in land management and planning. Traditional Knowledge is derived from keen observation carried out and passed down over hundreds or thousands of years. It represents another way of knowing the social and ecological landscape. It is invaluable to scientists in places where it remains intact—places such as Bears Ears. The Presidential Proclamation rightly refers to Traditional Knowledge several times and emphasizes its critical place in future land management at the Bears Ears National Monument.

This intensive work began in 2010 and continued for several years. It was a joined enterprise of Traditional Knowledge and western sciences. It reflected the careful, dedicated, and knowledgeable work of hundreds of Native people and dozens of academics. Their work shows that the Bears Ears landscape is one discrete unit, bound together in numerous ways, and it blends perfectly with other protected federal and Tribal lands.

UDB released its Bears Ears proposal in April, 2013. The Proposal called for a 1.9 million acre protected area that could be designated as a national monument, wilderness area, national recreation area, or other classification under federal law. The carefully-considered, data-driven boundaries developed by UDB quickly became accepted as a serious proposal that deserved serious attention. While Utah public officials were generally noncommittal or negative, the boundaries were praised by conservation groups and many federal officials. Our Tribes were inspired by the Proposal and the hard work that went into it, especially the cultural mapping that UDB developed that so fully represented Native American values.

For its part, UDB was disappointed and frustrated by the opposition or disinterest of Utah federal, state, and county politicians. In 2014, UDB turned to the Tribes to support and carry the Proposal. This was only logical. Federal Indian policy is based on the federal-tribal relationship and the Tribes would be the appropriate advocates to carry the Proposal forward. As a result, protecting Bears Ears increasingly became a major subject in the minds of the Tribes of the Southwest during 2014 and 2015.

The Tribal Proposal

We held many meetings, large and small, and made conference calls to discuss the alternatives. It became clear to us that there were two broad considerations. As a legal matter, what were the pros and cons of the different land classifications—wilderness, national monument, national recreation area, and others? At least as important, though, was the question of which would be the best forum—legislation controlled by the Utah delegation or a national monument proclamation developed by the administration and signed by President Obama?

In 2013, the Utah delegation was developing the so-called Public Lands Initiative (PLI). This was an initiative, led by Congressmen Bishop and Chaffetz, with the professed goal of

reaching a consensus agreement among all stakeholders over the public lands of Eastern and Southern Utah, an area of great cultural value, beauty, and mineral potential. The general idea was that an agreement would lead to congressional legislation putting some federal lands in wilderness and other protected status and allowing multiple-use development to proceed on most of the other lands. We wanted to develop an agreement through the PLI process, but also wanted to ensure that Bears Ears was properly protected. As a result, we analyzed the options of PLI and national monument status, among others.

We were very apprehensive about the PLI process. Up to that time, the Utah leaders had never taken us seriously. This was in spite of the fact that we worked tirelessly on the PLI process, putting in as much or more effort than any party involved in the process. We made at least 25 presentations at PLI meetings, complete with maps, a two-page summary of the UDB proposal (the precursor to the later and more comprehensive Coalition Proposal), and substantial oral presentations. Congressional staff were present at approximately a dozen of these meetings. We also made four separate trips to Washington DC to meet with the Utah delegation; at each of those meetings, we made extensive statements complete with maps and a summary of the Proposal. At all of these meetings, both in the field and in Washington DC, we asked for comments on our proposal. It was to no avail.

In spite of our extensive and unwavering efforts, in no instance did anyone from the Utah delegation or the PLI make a single substantive comment, positively or negatively, on our proposal. Our painful experience with attempting to make an inroad into the PLI process was epitomized by our dealings with the San Juan County Commission. Although the proponents of the PLI described the process as “open” and “ground-up,” PLI leaders said that they were relying

heavily on the county commission. Indeed, we were told to present our proposal to the San Juan County Commission.

As part of the PLI process, the San Juan County Commission conducted a public comment survey on PLI in 2014 to gauge support for various land use proposals for Bears Ears. The UDB proposal was initially identified as “Alternative D” and the County Commission staff agreed to include Alternative D in the list of alternatives on the survey. Then, the staff broke that promise and refused to include Alternative D on the list for the formal comment process.

Supporters of Alternative D (Bears Ears) waged a write-in campaign. Despite being omitted from the list, the Bears Ears proposal received 300 positive comments, 64% of the 467 total comments received in the County. The Commission then completely rejected the results of its own survey—and the wishes of the Indian people who constitute nearly 60% of the population of San Juan County—and selected the heavy-development, low conservation “Alternative B.” Alternative B had received just two comments, one half of 1% of the total.

In spite of the extraordinary unfairness of this proceeding—the kind of raw, heavy-handed political overreaching rarely seen in America today—at no time has San Juan County, the PLI, or the Utah delegation ever seen fit to acknowledge it, much less apologize and disown it.

In 2015, the Tribes decided to hold a special meeting to decide what the strategy should be. The meeting was held in Towaoc at the Ute Mountain Ute Reservation on July 15-17, 2015. The third day, Friday, was reserved for a meeting with federal officials from Washington, D.C. The day before, at the Thursday meeting in Towaoc, Tribal leaders had made a series of critical decisions that energized the already enthusiastic Bears Ears movement.

UDB and the Navajo Nation had always wanted this effort to be headed up by a multi-Tribal organization comprised of the Tribes that used the Bears Ears area the most. Thus, on that

day at Towaoc, to unite formally in furtherance of protecting the sacred Bears Ears landscape, Tribal leaders from Hopi, Navajo, the Ute Indian Tribe, Ute Mountain Ute, and the Zuni Tribe agreed to create the historic Bears Ears Inter-Tribal Coalition to protect and preserve the homeland area they all care so deeply about. All of the Tribes passed resolutions on the subject before the meeting or shortly after it. The five Tribes then adopted an MOU setting forth the mission, function, and procedures for the Coalition. (The Coalition continues to exist and is dedicated to grassroots organizing and public outreach. The Bears Ears Tribal Commission, was created by the Presidential Proclamation as a land management entity for the National Monument.)

The then newly-formed Bears Ears Inter-Tribal Coalition, recognizing the significance of the creation and management of a Bears Ears National Monument, decided to craft a comprehensive, detailed proposal, to be submitted to the President by a self-imposed deadline of October 15, 2015. Submission by this date would allow the President ample time to consider, and hopefully sign, a proclamation under the Antiquities Act, before the end of his term. This would also allow time for the Bishop-Chaffetz PLI process to review our proposal and include all or part of it in its proposed legislation, if so inclined.

During the late summer of 2015, the Tribes held four more well-attended, intensive day-long meetings, hosted at the reservations of the Coalition members, to review draft proposals in depth. These meetings, combined with UDB's work since 2010, allowed us to become well-informed in all of the issues related to achieving and carrying out a complex federal land management program.

The Proposal had many aspects to it, but two were the most fundamental to the Tribes. We strongly recommended the 1.9 million acre national monument with the boundaries developed by UDB's comprehensive, in-depth research and analysis. In addition, we discussed Collaborative

Management often and in-depth, and unanimously put forth a strong version of Collaborative Management between our Tribes and the federal agencies in which Traditional Knowledge would play an essential role.

Our Proposal reflects our intimate connection with Bears Ears, a cultural landscape densely inhabited by the stories, histories, prayers, and practices of people and place over millennia. Tucked among the canyons, folds, meadows, and promontories of Bears Ears rest an estimated 100,000 archaeological sites, regarded by researchers as world-class objects of scientific inquiry. Kivas, granaries, hogans, rock art panels, graves, and many more historic and prehistoric markers—all the work of our ancestors—are found throughout this area, preserved relatively undisturbed for centuries by the Colorado Plateau’s arid climate and rugged terrain.

The supplemental report, Bears Ears Inter-Tribal Coalition, *Protecting the Whole Bears Ears Landscape: A Call to Honor the Full Cultural and Ecological Boundaries* October 18, 2016, includes both maps and narrative descriptions of the importance and significance of the five geographic regions that comprise the whole of the Bears Ears National Monument: The Confluence, White Canyon, Indian Creek, Headwaters, and Cedar Mesa. *Id.* Each of the Bears Ears regions stand as significant historic and cultural landscapes deserving of a national monument designation in its own right. Taken as a whole, these five regions interlace to tell a compelling story of ancient cultures—even reaching into the present day with dwellings established as recently as the 1920s.

In all, our proposal represented the true voice of these Tribes and our determination to present to the United States a program that is workable in the real world of land management. We believed then and now that our proposal, as now mostly embodied in the Presidential Proclamation,

will add even more luster to the proud American system of conservation lands and, as well, bring justice to Tribes and this sacred landscape.

The Coalition submitted its comprehensive proposal to the Obama Administration on October 15, 2015, and its supplemental report on October 18, 2016. *See* Bears Ears Inter-Tribal Coalition, *Proposal to President Barack Obama for the Creation of Bears Ears National Monument* 18 (Oct. 15, 2015), <http://www.bearscoalition.org/wp-content/uploads/2015/10/Bears-Ears-Inter-Tribal-Coalition-Proposal-10-15-15.pdf>; Bears Ears Inter-Tribal Coalition, *Protecting the Whole Bears Ears Landscape: A Call to Honor the Full Cultural and Ecological Boundaries*.

The Administration's Extensive Public Outreach and Thorough Analysis of Legal Requirements

The Obama Administration put in an inordinate amount of time and expertise in conducting comprehensive research, reaching out to the public, and developing its position on Bears Ears. It was a big issue. Opposition was small in numbers but very loud—although there was a magnificent outpouring of public support for the Monument, the Utah congressional delegation and various state officials all were extremely active in pressing their positions with administration officials. But, from top to bottom, the administration developed and analyzed a tremendous amount of scientific, historical, economic, cultural, and legal material. On our trips back to Washington, we never failed to be amazed by the number of dedicated administration people who actively responded to the public and were deeply familiar with all or some of the issues.

For our part, beginning with the presentation of our Proposal, we began a 14-month period in which we had numerous meetings and conference calls with officials in the Interior Department, Forest Service, and Council on Environmental Quality. Most of our people live in remote areas in

the Southwest, and travel to the East Coast is grueling, but we made many, many trips to Washington DC.

We established a substantial public relations program and reached out locally and nationally through public meetings, op-ed articles, and television and radio presentations. Gradually, support for Bears Ears and our proposed collaborative management regime rose across the country. The only place where there was opposition was in the state of Utah, but public opinion polls showed that the Utah citizenry supported Bears Ears. Opponents blithely stated that “the people of San Juan County” oppose Bears Ears, ignoring the fact that the Native American population in the county is nearly 60%.

Virtually every major newspaper in the country supported the national monument. Especially notable is the *Salt Lake Tribune*, with the largest circulation in Utah. The *Tribune* editorialized in favor of the Monument several times and often exposed misinformation being released by the Utah delegation.

The Obama Administration welcomed and received the views of the public. The Antiquities Act does not require any specific procedures, other than the entry of a proclamation by the President. But the President directed that this be an open process. The administration received all manner of written opinions by letters and email. Meetings were arranged with countless organizations and individuals. Utah public officials, for example, had ongoing meetings and communications with the President, high White House officials, the two secretaries, heads of agencies, and career staff. As late as December 21, 2016, just one week before the Proclamation was signed, the Governor of Utah’s office complimented the staff to the Department of the Interior on the time and attention that they devoted to this issue.

In an exceptional display of reaching out to the public, Secretary Sally Jewell, accompanied by top Interior and Agriculture officials, traveled to Bluff, Utah and held a day-long open public hearing in which more than one hundred citizens, drawn by lot, made two-minute statements. See <http://bluffutah.org/secretary-jewell-to-discuss-protection-of-bears-ears-at-public-meeting/>. Every perspective was represented. The overflow crowd was estimated at approximately 2,000; the largest gathering ever held in Bluff.

The Committee on Oversight and Government Reform documented the timeline of events that led up to the Bears Ears Proclamation. The timeline and the documentation reveal repeated contacts, meetings, coordination, and outreach by the Obama Administration with the Utah delegation, governor, and local communities prior to the Monument Proclamation. See *Documents Obtained by Oversight Committee Refute Republican Claims That Obama Administration Did Not Consult on Bears Ears Monument Designation*, Committee On Oversight and Government Reform (April 13, 2017), <https://democrats-oversight.house.gov/news/press-releases/documents-obtained-by-oversight-committee-refute-republican-claims-that-obama>. To show the extensive public outreach and coordination in the creation of the Bears Ears National Monument, we incorporate by reference the timeline and documentation of the Committee on Oversight and Government Reform.

In addition to attending to public outreach, the President and the administration gave long and careful attention to two provisions in the Antiquities Act that were especially relevant to the creation of this Monument. The statute allows presidents to create national monuments to protect “objects” of historic or scientific interest. While the legal definition of “objects” is very broad and calls for extensive discretion by presidents, the designation of such objects is critical to the creation of any monument. In this case, administration officials gave the matter continuing consideration.

The result can be seen in the Proclamation, which identifies a great many objects and places them in context.

The other provision is that, under the Antiquities Act, national monuments “shall be confined to the smallest area compatible with the proper care and management of the objects to be protected.” While uniform case law gives very broad authority to presidents—Congress delegated authority to create national monuments to the President, “in his discretion” in the Antiquities Act—agency officials scrutinized this issue at length. State of Utah and mining company executives pressed for reducing the acreage. Finally, the Proclamation made a major reduction from the Tribes’ proposal of 1.9 million acres down to 1.35 million acres, a cut of nearly 30%. This action, which we strenuously opposed, was a compromise for extraction industries and brought the size of the Monument down nearly to the acreage allocated for protection under the Bishop-Chaffetz proposal in the PLI. While we believe that the size of the Monument should be expanded to include more precious resources, the current acreage is easily supported as “the smallest area compatible with the proper care and management of the objects to be protected.”

The Presidential Proclamation

The Presidential Proclamation of December 28, 2016 reflects the long and hard work that the administration put into it. The new Monument is tailor-made for coverage under the Antiquities Act of 1906, which Congress passed in response to the destruction of the kind of exquisite Southwestern archaeological resources that are so abundant at Bears Ears. Every part of the Monument holds “historic landmarks, historic and prehistoric structures, and other objects of historic and scientific interest,” the core requirement of the Antiquities Act and the evocative Proclamation identifies such archaeological objects in great detail. The Proclamation is equally expansive with objects that are historical, geological, anthropological, paleontological, ecological,

hydrological, botanical, and biological. Proclamation No. 9558, 82 Fed. Reg. 1139-43 (Dec. 28, 2016). *These objects exist everywhere within the Monument.*

It is also worth pointing out that the outdoor recreation economy generates \$887 billion annually in consumer spending, creates 7.6 million jobs, provides for \$65.3 billion in federal tax revenue, and provides for \$59.2 billion in state and local revenue. https://outdoorindustry.org/wp-content/uploads/2017/04/OIA_RecEconomy_FINAL_Single.pdf Likewise, National parks, wildlife refuges, national monuments and other public lands and waters account for \$35 billion in economic output and 396,000 jobs in the U.S. *Id.* After Utah representatives came out against Bears Ears, the twice-yearly Outdoor Retailer gathering, which brought the state \$45 million in annual direct spending, began looking for another host city. <https://www.usatoday.com/story/money/nation-now/2017/04/25/amid-public-land-battle-outdoor-industry-boasts-887-billion-impact/100883702/>. Thus, the economic impact of Bears Ears on local, state, and federal economies should not be underestimated and supports maintaining the Monument. Indeed, fiscal responsibility demands that it be maintained.

The Proclamation recognizes the “[a]bundant rock art, ancient cliff dwellings, ceremonial sites, and countless other artifacts [that] provide an extraordinary archaeological and cultural record.” While the area is important to all Americans, the Proclamation recognizes that “the land is profoundly sacred to many Native American Tribes, including the Ute Mountain Ute Tribe, Navajo Nation, Ute Indian Tribe of the Uintah Ouray, Hopi Nation, and [Pueblo of] Zuni.”

The Proclamation notes that the earliest Native people—from the Clovis to the Ancestral Puebloans—utilized the Bears Ears region for millennia. *Id.* “The remains of single family dwellings, granaries, kivas, towers, and large villages, and roads linking them together, reveal a complex cultural history. ‘Moki steps,’ hand and toe holds carved into steep canyon walls by the

Ancestral Puebloans, illustrate the early people's ingenuity and perseverance and are still used today to access dwellings along cliff walls.”

The “petroglyphs and pictographs capture the imagination with images dating back at least 5,000 years and spanning a range of styles and traditions. From life-size ghostlike figures that defy categorization, to the more literal depictions of bighorn sheep, birds, and lizards, these drawings enable us to feel the humanity of these ancient artists.”

We were disappointed by the Obama Administration's reduction of the Monument from our proposal of 1.9 million acres down to 1.35 million acres. Virtually all of the changes were made to accommodate mining interests. We were saddened because those areas are all culturally important to us and now may well be developed in disruptive ways that detract from the values of the Monument lands themselves. While we disagree with this review process as stated above, any review of the Monument should consider its expansion to the originally proposed 1.9 million to protect these cultural resources.

Even still, the Proclamation achieved our goals and the goals of the Antiquities Act. The provisions for collaborative management vary somewhat from our proposal but the end result is truly exciting in that it calls for deep involvement—not just “consultation” or “advice”—of our tribal Commission as a “partner” in management of the Monument. The Proclamation leaves no doubt about the central importance of our Traditional Knowledge in management of this Monument: “The traditional ecological knowledge amassed by the Native Americans whose ancestors inhabited this region, passed down from generation to generation, offers critical insight into the historic and scientific significance of the area. Such knowledge is, itself, a resource to be protected and used in understanding and managing this landscape sustainably for generations to come.” 82 Fed Reg. at 1140.

As an overarching matter, the Proclamation alludes to, and honors, Native people in the in a respectful manner. It describes our cultural practices in terms that are accurate, neither demeaning nor romantic. The Proclamation is not locked in the past: it acknowledges contributions of both our ancestors and Native Americans today. Traditional Knowledge, for example, is correctly recognized as being possessed by us both historically and contemporarily. In the past, monument proclamations made only passing references to Native Americans. In this case, about one-quarter of the text is dedicated to our people and our relationship to all that is the Bears Ears landscape. In reading the Proclamation, one can see—and it means a great deal to us—that President Obama created the Bears Ears National Monument to honor Indian Tribes (both past and present), the land, and the relationship between the Tribes and the land.

Conclusion

As can be seen from these comments, there was extensive public outreach and coordination with relevant stakeholders and the Bears Ears National Monument easily conforms to the objectives of the Antiquities Act. Under the Antiquities Act, presidents have authority to create new national monuments, but not to extinguish or diminish existing monuments. An attempt to do either one would be struck down by the courts as executive overreaching. We are attaching a short, recent article in which distinguished scholars address this matter entitled *Presidents Lack the Authority to Abolish or Diminish National Monuments*. Mark Stephen Squillace, Eric Biber, Nicholas S. Bryner and Sean B. Hecht, *Presidents Lack the Authority to Abolish or Diminish National Monuments*, 103 Va. L. Rev. Online (2017), <https://ssrn.com/abstract=2967807>.

Leaving the Monument fully intact is also the correct result as a matter of right and wrong. The wonderful Bears Ears National Monument is a gift to the citizens of the United States and the world. Once experienced, the physical beauty of the red-rock terrain and the cultural power of the

Old People stay with visitors forever. As for us, we personally have received a great gift also, but most of all we think of our ancestors. They gave us everything we have and this Monument honors them, their wisdom, and their way of life. As President Theodore Roosevelt said in proclaiming the 800,000-acre Grand Canyon National Monument under the Antiquities Act, "Leave it just as it is. You cannot improve upon it."



Alfred Lomahquahu
Vice Chairman, Hopi Tribe

THE NAVAJO NATION



Russell Begaye, *President*



Tony Small
Vice Chairman, Ute Business Committee
Ute Indian Tribe



Harold Cuthair
Chairman
Ute Mountain Ute Tribe



Carleton Bowekaty
Councilman
Zuni Pueblo

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