

Public Interest Comment from Strata Policy on Certain National Monuments Established Since 1996

Public Interest Comment on The Department of the Interior's Review of Certain National Monuments Established Since 1996

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ABOUT STRATA

Strata is a public policy research center in Logan, Utah, that seeks to help people make informed decisions about issues that impact the freedom to live their lives. We work to achieve more prosperous and free societies by conducting academic research on energy and environmental issues. We draw from the collective academic strength and ideas from a strong network of academics and professionals across the world.¹



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¹ A statement on Strata's policies regarding research independence and integrity is available at: <http://www.strata.org/research-policy/>

Introduction and Background

The Department of the Interior's request for comment on national monuments designated over the past twenty years responds to Executive Order 13792, issued by President Trump.² The Executive Order instructs the Secretary of the Interior to consider past designations' adherence to statutory language in the Antiquities Act of 1906, among other criteria, including:

1. The requirements and original objectives of the Act, including the Act's requirement that reservations of land not exceed "the smallest area compatible with the proper care and management of the objects to be protected";
2. whether designated lands are appropriately classified under the Act as "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest";
3. the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy and Management Act (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond the monument boundaries;
4. the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries;
5. concerns of State, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected States, tribes, and localities;
6. the availability of Federal resources to properly manage designated areas.

The current review examines 21 recent national monument designations or enlargements: Basin and Range, Bears Ears, Berryessa Snow Mountain, Canyons of the Ancients, Carrizo Plain, Cascade-Siskiyou, Craters of the Moon, Giant Sequoia, Gold Butte, Grand Canyon-Parashant, Grand Staircase-Escalante, Hanford Reach, Ironwood Forest, Mojave Trails, Organ Mountains-Desert Peaks, Rio Grande del Norte, Sand to Snow, San Gabriel Mountains, Sonoran Desert, Upper Missouri River Breaks, and Vermilion Cliffs.

Strata is a public policy think tank based in Logan, Utah, that uses public choice theory and political economy to evaluate the legal and economic ramifications of government actions, especially as they relate to environmental policy. We are interested in the review of these national monuments because we are concerned about the rule of law, the abuse of government power, and the effects of government policies on a wide range of people. Our organization is composed of academics and policy professionals who engage in research to better understand the incentives behind government policies and the consequences that result from these policies.

With the Secretary's criteria in mind, we find that many of the national monuments under review, as currently designated, do not comport with the Act's requirements and original objectives. We also find that many designations do not "appropriately balance the protection of

² Exec. Order No. 13792, 82 Fed. Reg. 82 (2017).

landmarks, structures, and objects against the appropriate use of federal lands and the effects on surrounding lands and communities."³

Below, we have listed several of our conclusions that the Department of the Interior should consider in its review of recently established national monuments. The conclusions of our analysis are listed in the order we discuss them throughout the document.

1. The creation of many recent national monuments seems to be motivated by presidents' interest in building an environmental legacy, rather than the stated purposes of the Antiquities Act.
2. Many monuments violate the law by being significantly larger than "the smallest area compatible with the proper care and management of the objects to be protected."
3. Many recent national monuments do not contain sites that are unique or specific enough to fulfill the "historic or scientific interest" clause of the Antiquities Act.
4. Historical precedent gives ample evidence that the executive may unilaterally reduce the size of improperly large designations.
5. Federal laws and regulations make monument designations superfluous in many cases because monuments do little to give additional protection to the amenities described in presidential proclamations.
6. Federal agencies, including the National Park Service, Forest Service, and Bureau of Land Management, suffer from backlogs and limited budgets that restrain how well they can manage large national monuments.

We also provide a specific comment on each of the 21 national monuments under review. Some of the national monuments under consideration appear to adhere to the statutory language of the Antiquities Act. Other monuments appear to violate that statutory language. We make a number of policy recommendations the President and Secretary could pursue in reevaluating national monuments.

³ Review of Certain National Monuments Established Since 1996; Notice of Opportunity for Public Comment. 82 Fed. Reg. 90 (2017).

Analysis

Many Recent National Monuments Violate the Stipulations in the Antiquities Act

Legal Historical Background

The Department of the Interior's request for public comment asks for information regarding "[t]he requirements and original objectives of the Act, including the Act's requirement that reservations of land not exceed 'the smallest area compatible with the proper care and management of the objects to be protected'" and "whether designated lands are appropriately classified under the Act as 'historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest.'"⁴

The phrase "historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest" is drawn from the Antiquities Act and establishes the criteria the President may use to determine whether a given site can appropriately be designated as a national monument.⁵ The statute does not supply any formal definition for these criteria. The Act's legislative history is long and complex, but many contemporary legislative documents and remarks by representatives indicate that the Act's original purpose was to protect small geographic areas associated with specific relics and sites.⁶ The phrase "other objects of historic or scientific significance" was not included in early drafts of the Act, but was instead added by a committee appointee from the American Anthropological Association. The Department of the Interior, interested in preserving greater swaths of land, approved the change, but Western congressional delegations disagreed, fearing land grabs. To appease concerned stakeholders in the West, the "smallest area compatible" language was included in the final bill.⁷

The ways that presidents have used the Antiquities Act have evolved over the past century. Between 1906 and 1943, various presidents established 82 national monuments with relatively little resistance or controversy. The first major attempt to limit the power of the president under the Antiquities Act occurred in 1920 in *Cameron v. United States*. In this case, the Supreme Court found that the federal government had a right to evict Ralph H. Cameron from his mining claims on the south rim of the Grand Canyon because President Theodore Roosevelt's creation of the Grand Canyon National Monument was within the scope of authority granted under the Antiquities Act. Cameron had argued that the monument exceeded the Act's

⁴ Review of Certain National Monuments Established Since 1996, *supra*.

⁵ 54 U.S.C. § 320301(a).

⁶ Hartman, B. J. (2011). "Extending the Scope of the Antiquities Act." *Public Land and Resources Law Review* 32, 153-191. <http://scholarship.law.umt.edu/cgi/viewcontent.cgi?article=1026&context=plrlr>

⁷ Rusnak, E. C. (2003). "The Straw that Broke the Camels Back? Grand Staircase-Escalante Antiquates the Antiquities Act." *Ohio State Law Journal* 64, 669-730. <http://moritzlaw.osu.edu/students/groups/oslj/files/2012/03/64.2.rusnak.pdf>

authority, but the Supreme Court stated that the Grand Canyon qualified as an object of historic or scientific interest because it "is the greatest eroded canyon in the United States, if not in the world, is over a mile in depth, has attracted wide attention among explorers and scientists, affords an unexampled field for geologic study, [and] is regarded as one of the great natural wonders."⁸ This case widened the president's discretion to designate national monuments.

Another landmark case that shaped how presidents could use the Antiquities Act was *State of Wyoming v. Franke*. In 1943, President Franklin Roosevelt created Jackson Hole National Monument in Wyoming, which was strongly opposed by many locals. In this case, Wyoming charged that Jackson Hole National Monument exceeded the scope of the Antiquities Act because it lacked "historic landmarks, historic or prehistoric structures [or] objects of historic or scientific interest." The Wyoming Federal District Court upheld the establishment of the monument, stating that "whenever a statute gives a discretionary power to any person, to be exercised by him upon his own opinion of certain facts, it is a sound rule of construction, that the statute constitutes him the sole and exclusive judge of the existence of those facts."⁹

In response to the controversy over Jackson Hole National Monument, Congress passed a law to abolish the monument, which President Roosevelt vetoed. Again in 1947, Congress attempted to abolish the monument, but public sentiment had changed, and it became politically expedient to preserve the monument designation. In 1950, Congress incorporated Jackson Hole National Monument into the bordering Grand Teton National Park. This legislation, however, amended the Antiquities Act, prohibiting any new national monuments or extensions to national monuments in Wyoming without Congressional approval. The political battle over Jackson Hole National Monument slowed the creation of new national monuments. Between 1943 and 1977, only six national monuments were established by presidents.¹⁰

The next landmark court case occurred in December 1978, when President Carter designated fifteen national monuments in Alaska, most of which covered over a million acres each. These designations reignited the controversy and disputes over the legality of national monument designations. In *Anaconda Copper v. Andrus*, the Supreme Court again refused to limit the president's authority under the Antiquities Act. In the case, the Supreme Court stated that it did "believe there are limitations" to the president's authority and discretion. The Court, however, did not define those limitations, and never has to this day. Because the courts and Congress did not restrict or define presidential authority when the Alaskan designations were made in 1978, the president appears to have ever-widening and unchecked authority under the Act.¹¹ Past abuses of the Antiquities Act, however, do not justify continuing abuses, and past abuses should be remedied by the executive branch or Congress. The judicial branch's failure to

⁸ Quigley, J. J. (1999). Grand Staircase-Escalante National Monument: Preservation or Politics. *Journal of Land, Resources, & Environmental Law*, Vol. 19, Issue 1 (1999), pp. 55-102.

⁹ *Ibid.*

¹⁰ *Ibid.*

¹¹ Halden, A. E. (1997). The Grand Staircase-Escalante National Monument and the Antiquities Act [notes]. *Fordham Environmental Law Journal*, Vol. 8, Issue 3 (Symposium 1997), pp. 713-740.

restrict usage of the Antiquities Act to a reasonable domain only makes it more important that the executive provide intertemporal checks and balances on its own.

Political Economy Explanation for the Designation of National Monuments

Over the course of the 20th century and into the 21st century, presidents have used the Antiquities Act to designate increasingly large and controversial pieces of federal land as national monuments. One of the most striking uses of the Antiquities Act has been what we call "midnight monuments."¹² Many presidents have used their lame duck months in office to designate some of the largest and most controversial national monuments.

Rather than following the stated purpose of the Antiquities Act, the creation of many monuments seems to be rooted in the desire for an "environmental legacy." For example, Presidents Obama, Bush, and Clinton designated monuments during their lame duck periods between the final presidential election of their terms and the next president's inauguration. This pattern strongly suggests that these monument designations served mainly as a tool for environmental legacy building. Using the Antiquities Act as a means of self-aggrandizement on the part of lame duck presidents is inconsistent with the Act's original objectives.

Although difficult to prove that a designation is used for motives other than the protection of historic or scientific amenities, economic theory can illuminate conditions linked to designations that are used for motives other than those expressly written in the Act. First, the lame duck period between an election and an inauguration is a strategic time for controversial actions on the part of the president and Congress alike. The ability of the electorate to punish the president and his party for overreach is vastly diminished in the lame duck period, which explains why presidents often save their most controversial designations and regulations for this period. Second, national monument designations, especially large ones, help build an environmental legacy because presidents are seen as having "saved" the largest amount of land possible. National monuments are popular with average Americans, especially those that live in cities and are located far from the monuments themselves. This popularity is the main mechanism that leaves a lasting legacy. Third, national monument designations are one of the lowest cost ways for presidents to build an environmental legacy. Alternative means, such as landmark legislation or national park designations, are difficult and costly for a president to achieve because engaging with Congress to create such policies is time consuming and requires extensive coalition building, among other costs. Designating a national monument, on the other hand, can be done unilaterally. The judiciary's lax enforcement of the Antiquities Act's restrictions makes this even easier.

With the nearly unlimited discretion of the Antiquities Act, recent two-term presidents have used their authority to designate national monuments in the lame duck period between the election and the next president's inauguration. For example, President Obama designated five

¹² Much of the research of this section and the terminology of "midnight monuments" comes from an ongoing and unreleased research project of Lofthouse, Harmer, and Wardle. We are available for further comment on this research if it interests the Department.

national monuments in his lame duck period, George W. Bush designated four, and Clinton designated eight. For perspective, Obama designated twenty-four national monuments before his lame duck period, George W. Bush designated two, and Clinton designated ten, despite the fact that the lame duck period makes up less than 100 days of these presidents' long tenures. Environmental legacy building is inconsistent with the original objectives and intent of the Antiquities Act, and such uses of the law are an overreach of executive power.

Many National Monuments Exceed the Antiquities Act's Size Limitations

Many recent national monuments do not fulfill the requirements of the Antiquities Act because their size is much larger than "the smallest area compatible with the proper care and management of the objects to be protected." Although the Act implicitly gives the president wide discretion to designate national monuments on federal lands, the law should not be read to give the president unlimited authority to unilaterally designate vast areas.

Devils Tower National Monument, the first national monument in the United States, protects approximately two square miles. President Theodore Roosevelt used the Antiquities Act in 1906 to create Devils Tower National Monument, but his designation was only slightly larger than the footprint of the Devils Tower butte itself. This seems more consistent with the wording to protect "the smallest area compatible with the proper care and management of the objects to be protected." Despite this precedent, presidents have made increasingly large designations. Over the years, the Supreme Court and other federal courts have consistently upheld presidential designations of national monuments, creating the incentive for presidents to abuse their fiat power.¹³

The majority of national monuments that were established in the early 1900s were also of similar size and scope to Devils Tower. Over time, national monuments designations have become increasingly large as presidents have used the Antiquities Act more loosely. Prior to 1970, the average size of national monuments was roughly 80,000 acres. After 1970, the average size of national monuments was over ten times larger at nearly 1.013 million acres. In Appendix 1, we have listed all national monuments that presidents created through the Antiquities Act and the acreage of those monuments at the time they were created.

Some recent national monuments clearly are larger than the Antiquities Act was meant to protect. Bears Ears in Utah is 1.353 million acres, Grand Staircase-Escalante in Utah is 1.7 million acres, and Mojave Trails in California is 1.6 million acres.. To put this into perspective, the State of Delaware is 1.251 million acres. The Antiquities Act was never meant to protect areas larger than some states, nor was it meant to give presidents the unbridled authority to redesignate such large tracts of public land.

¹³ See e.g. *Cappaert v. United States*, 426 U.S. 128 (S.C. 1976), *Cameron v. United States*, 252 U.S. 450 (S.C. 1920), and Squillace, M. (2003). "The Monumental Legacy of The Antiquities Act of 1906." *Georgia Law Review* 37, 473-610. https://www.nps.gov/parkhistory/online_books/antiquities/antiquities.pdf

Many Recent National Monuments Do Not Contain Unique Features of Historic or Scientific Interest

Most national monuments that were created before the 1970s contained specific and unique features that had historic or scientific interest. Some of the oldest national monuments preserved distinct archaeological or geological features. For example, Devils Tower National Monument protected a particular and unique igneous rock tower, and Montezuma Castle National Monument preserved an ancient cliff dwelling.

Through the end of the 20th century and into the 21st, presidents became much looser with the features they deemed to be worthy of national monument protection. For example, many recent presidents have justified their national monuments by citing the presence of abundant and widespread species of vegetation and wildlife. Many recent national monuments have used such vague and wide-sweeping justifications for "historic or scientific interest" that the term loses nearly all meaning. With vague justifications, presidents could potentially establish national monuments that included the entire Colorado Plateau or the entire Mojave Desert. In the "Specific Comments on the National Monuments Under Review" section of this paper, we show how and why many recent national monuments do not comport with the "historic and scientific interest" stipulations of the Antiquities Act.

The Executive Has the Authority to Reduce the Size of Existing National Monuments Under Some Circumstances

No president has ever attempted the wholesale removal of a national monument designation. There is legal disagreement over whether such an attempt would ultimately be upheld in the courts, with reasonable arguments to be made for both sides.¹⁴ Ultimately, executive-led full revocation of monument status is legally uncharted territory. Reductions in size, however, have occurred multiple times without court challenges. First, President Taft reduced his own designation of Navajo National Monument, cutting its land area by 89 percent. Multiple presidents cut pieces from Mount Olympus National Monument, reducing its size by nearly half. President Truman removed nearly half of Santa Rosa Island National Monument from designation, and President Eisenhower diminished Great Sand Dunes National Monument by 25 percent. This is not an exhaustive list—it merely highlights major reductions.¹⁵

President Taft's proclamation vastly reducing Navajo National Monument is illustrative. It specifically states that the decision was a result of finding that the designation constituted "a

¹⁴ *Presidential Authority to Revoke or Reduce National Monument Designations* by John Yoo and Todd Gaziano, cited later in this paragraph, begins with the argument that the president has the general authority to revoke designations under a number of well accepted legal principles. For legal opinions arguing that the executive does not have the right to remove monuments, see Wyatt, A. M. (2016). *Antiquities Act: Scope of Authority for Modification of National Monuments*. Congressional Research Service Report R44687. Retrieved from http://www.law.indiana.edu/publicland/files/national_monuments_modifications_CRS.pdf

¹⁵ Yoo, J. & Gaziano, T. (2017). *Presidential Authority to Revoke or Reduce National Monument Designations*. American Enterprise Institute. Retrieved from <https://www.aei.org/wp-content/uploads/2017/03/Presidential-Authority-to-Revoke-or-Reduce-National-Monument-Designations.pdf>

much larger tract of land than is necessary for the protection of such of the ruins as should be reserved.”¹⁶ Even without general authority to rescind monument status, there is a strong case to be made that the president retains the power to shrink existing monuments according to a finding that an original designation was inappropriately large. No federal court has ever ruled directly on these reductions, but in *Alaska v. United States*, the Supreme Court “accepted without discussion” that the boundaries of Glacier Bay National Monument redrawn by President Eisenhower were legitimate.¹⁷ Eisenhower’s proclamation made reductions on three different plots for separate reasons: the land could serve a more critical federal purpose; it was improvidently included in the designation to begin with; and Antiquities Act protection was no longer necessary.¹⁸ The Congressional Research Service’s report on presidential authority under the Antiquities Act concludes (albeit with an air of legal uncertainty) that these and other reductions are legally legitimate.¹⁹

Historical examples of presidents shrinking previous monument designations abound, including some which are quite large. The Department of the Interior should reevaluate previous designations to ascertain both whether they were originally valid and/or continue to be necessary. If either of those conditions is not met, the President and Secretary should seek to redraw monument boundaries in accordance with the size and scope limitations present in the text of the Antiquities Act.

Many Monument Designations Do Little to Give Additional Protections

Federal Laws and Regulations Already Protect Most Public Land

The Antiquities Act was passed in 1906 under a set of unique circumstances and with particular intentions. In the late 19th century and early 20th century, policymakers, academics, and the general public were concerned that development and looting were destroying archeological sites and other artifacts across the country. Congress passed the Antiquities Act as a relatively low-cost means of quickly protecting cultural and natural resources that were in immediate danger of destruction.²⁰

As the 20th century progressed, other legislation and regulations were enacted to protect cultural and natural resources. These additional protections should have limited the need for presidents to use the Antiquities Act, at least in theory. For example, the Archaeological Resources Protection Act (ARPA) of 1979 protects archaeological resources found on federally-owned and tribal lands, making monument designations to protect these resources redundant in many cases. ARPA also bans the trafficking of archaeological resources that people obtain when

¹⁶ Proclamation No. 1186, (1912). Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=76605>

¹⁷ 545 U.S. 75. (S.C. 2005). Quotation and analysis from Yoo & Gaziano, *Presidential Authority*, *supra*.

¹⁸ Proclamation No. 3089, (1955). Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=107264>

¹⁹ Wyatt, *Antiquities Act*, *supra*.

²⁰ National Park Service. (2016). *About the Antiquities Act*. Retrieved from <https://www.nps.gov/archeology/sites/antiquities/about.htm>

violating existing laws and regulations.²¹ Despite increasing protections for cultural and natural resources, presidents continued to use their authority under the Act to designate monuments. In many cases, the Antiquities Act has evolved into a political tool, rather than a last-resort means of preserving endangered amenities of historic or scientific interest.

Advocates for a designation often want to ensure protection for artifacts and sacred sites. These areas are already protected by ARPA, which states “No person may [or attempt to] excavate, remove, damage, or otherwise alter or deface [...] any archaeological resource located on public lands or Indian lands” unless they have been issued a permit by the proper governing body. People that knowingly violate this law can be fined up to \$10,000 or imprisoned for up to a year. Laws that prohibit removing or damaging Native American artifacts already exist, so a national monument designation does little to provide extra protection. Current laws and regulations could protect areas of historic or scientific interest if they are enforced by federal land management enforcement officers.

In addition to ARPA, the federal land management agencies must follow dozens of other laws and regulations intended to protect public lands. Here is a list of just some of the laws that federal land managers must obey:

- Clean Air Act
- Clean Water Act
- Coastal Zone Management Act
- Comprehensive Environmental Response, Compensation, and Liability Act (Superfund)
- Endangered Species Act
- Energy Policy Act of 1992
- Energy Policy Act of 2005
- Federal Land Policy and Management Act
- Federal Insecticide, Fungicide, and Rodenticide Act
- Federal Power Act
- Fish and Wildlife Coordination Act
- Fisheries Conservation and Management Act (Magnuson-Stevens)
- Lacey Act
- Marine Mammal Protection Act
- Migratory Bird Treaty Act
- Mineral Leasing Act
- National Environmental Policy Act
- National Forest Management Act
- National Historic Preservation Act
- Noise Control Act
- Nuclear Waste Policy Act
- Ocean Dumping Act

²¹ Gerstenblith, P. (2016). “The Legal Framework for the Prosecution of Crimes Involving Archaeological Objects.” *Cultural Property Law* 64(2), 5-16. Retrieved from <https://www.justice.gov/usao/file/834826/download>

- Oil Pollution Act
- Resource Conservation and Recovery Act
- Rivers and Harbors Act
- Safe Drinking Water Act
- Surface Mining Control and Reclamation Act
- Toxic Substances Control Act
- Wild and Scenic Rivers Act

Each land management agency also makes management plans to protect the ecological and historic amenities on federal land. For example, the Bureau of Land Management (BLM) creates resource management plans (RMPs) to protect the plants, animals, landscapes, and historic features of the land under its purview. RMPs guide the BLM in how it manages public lands. The BLM must balance between competing land uses, while also protecting valuable resources for the future.²² RMPs may consider a wide variety of aspects on public land, such as air quality, areas of critical environmental concern, climate change, cultural and paleontological resources, fire and fuels, fisheries, forest management, hydrology, invasive species, lands and realty, lands with wilderness characteristics, livestock grazing, minerals, national trails systems, rare plants and fungi, recreation and visitor services, socioeconomic, soil resources, sustainable energy, trails and travel management, tribal interests, visual resource management, wildlife, and wild-and-scenic rivers.²³

The United States Forest Service (USFS) also creates a management plan for every national forest or grassland under their purview. Managers of individual forests and grasslands adhere to planning rules to develop a specific land management plan. The planning process for USFS management plans meets the requirements of the National Forest Management Act (NFMA), the Multiple-Use Sustained-Yield Act (MUSYA), and the Endangered Species Act, as well as all other legal requirements. USFS land management plans are required to promote "ecological sustainability and contribute to social and economic sustainability, using public input and the best available scientific information to inform plan decisions." In particular, USFS planning rules emphasize protecting water resources, restoring ecosystems, supporting biodiversity, and promoting multiple uses.²⁴

Past presidents have failed to show why the list of federal laws, regulation, and management plans are insufficient for protecting the lands they have designated as national monuments. The Antiquities Act was passed in a time when few environmental or historic preservation laws existed, but in recent decades, the United States has implemented dozens of

²² Utah Public Lands Coordinating Office. (n.d.). "BLM Resource Management Plans Litigation." Retrieved from <http://publiclands.utah.gov/current-projects/blm-resource-management-plan-litigation/>

²³ Bureau of Land Management. (2015). Proposed Resource Management Plan Western Oregon – Final EIS – Volume 1. Retrieved from https://www.blm.gov/or/plans/rmpswesternoregon/files/prmp/RMPWO_V1_Summary.pdf

²⁴ National Forest System Land Management Planning. 77 Fed. Reg. 21162 (2012). Retrieved from https://www.fs.usda.gov/Internet/FSE_DOCUMENTS/stelprdb5362536.pdf.

laws that protect nearly every aspect of our federal lands. Some national monuments are designated in areas that already have federally designated wilderness, wilderness study areas, or wildlife refuges. These designations make national monuments largely superfluous for environmental protections, but monuments do serve as a way for presidents to build environmental legacies without expending much political capital.

Failed Attempt at Preservation: Fossil Cycad National Monument

Designating an area as a national monument does not automatically ensure that the area will be protected into the future. For example, Fossil Cycad National Monument in South Dakota was created in 1922, but in 1957, Congress removed the national monument designation. The area was named for the rich collection of fossils that abounded in the monument, but in only 33 years, nearly all the above-ground fossils within the monument were looted by visitors. The monument designation did not prevent visitors from stealing fossils as souvenirs from the monument. Without the fossils, justifications for the monument no longer existed.

Without proper enforcement, monument designations are little more than a name change of federal lands. Sally Shelton, the collections director of the Museum of Geology at the South Dakota School of Mines and Technology, said about Fossil Cycad, “If you want to manage something as a public resource, you need to make sure that you’ve got the resources to make that commitment. Just saying it’s a national park or monument doesn’t give it any protection.”²⁵

If the Secretary finds that some national monuments are not afforded greater levels of protection from their designations, he should consider alternatives to the designation. In some cases, state and local officials may have more resources, knowledge, and incentive to protect an area than a federal manager would. Particularly in areas containing Native American artifacts, allowing tribes to take a greater role in managing the area may provide greater protections for artifacts.

Funding Shortfalls for Public Lands

The federal government may not always have the resources available to properly manage designated areas. Serious funding issues limit federal land managers ability extend current protections. For example, the National Park Service currently has a \$12 billion backlog of deferred maintenance projects, which is roughly five times more than the average amount that Congress appropriates to the entire Service annually.²⁶ The BLM, which manages several national monuments under the National Landscape Conservation System, has overextended its resources protecting the monuments under its control. These National Conservation Lands

²⁵ Tupper, S. (2016, June 26). SD’s forgotten national monument: A cautionary tale for the Park Service centennial. *Rapid City Journal*. Retrieved from http://rapidcityjournal.com/news/local/sd-s-forgotten-national-monument-a-cautionary-tale-for-the/article_94f03f22-1c00-54bc-b73a-df4c737f337c.html

²⁶ Fretwell, H., Gilroy, L., Regan, S. & Watson, R. (2016). *Breaking the Backlog: 7 Ideas to Address the National Park Deferred Maintenance Problem*. Property and Environment Research Center Public Lands Report. Retrieved from https://www.perc.org/sites/default/files/pdfs/BreakingtheBacklog_7IdeasforNationalParks.pdf

compose 12 percent of BLM land but only receive 6 percent of total BLM funding. The BLM has only \$2.23 per acre for its National Conservation Lands.²⁷ The USFS also struggles with funding, due in large part to the high expense of fighting fires. The USFS claims that the "trend of rising fire suppression costs is predicted to continue as long as the 10-year average serves as the funding model and presents a significant threat to the viability of all other services that support our national forests."²⁸

Given the perpetual funding issues with the NPS, USFS, and BLM, national monuments will continue to struggle with the same issues that existed prior to the designation. The title of "national monument" does not automatically solve any fiscal issues.

National monument designations may have the unintended consequence of degrading the very things the monuments were intended to protect. Newly designated national monuments often increase tourism, so considering the fiscal issues that the NPS, USFS, and BLM face, federal agencies may not have the resources to properly protect the objects of interest found within national monuments, especially ones that are hundreds of thousands of acres. Even in well-funded national parks, vandalism and degradation commonly occur. In less-funded national monuments that span for hundreds of thousands of acres, the small number of enforcement officers may not be able to stop vandalism, looting, poaching, or other forms of degradation. Increasing funding may not be the proper answer because the funding necessary to establish adequate enforcement may exceed the benefit of the added enforcement.

Specific Comments on the National Monuments Under Review

In this section, we evaluate each of the 21 monuments under review. For each monument, we discuss the justifications specified in each of the presidential proclamations. Then we evaluate whether the justifications are valid under the "smallest area compatible" and "historic and scientific interest" clauses.

We also provide courses of action that the executive branch may take. For many monuments, we recommend that the President collaborate with Congress to reevaluate land protections. Congress, being a more democratically responsive institution, is more likely to succeed at drawing compromise between competing public land interests. Congressional collaboration also expands the slate of policy options, as the Constitution states "Congress shall have Power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States."²⁹

There is a long history of national monuments being made into national parks by Congress. Many of America's most beloved national parks began as presidentially created national monuments that were later sanctioned by Congress to become national parks. Some of

²⁷ Conservation Lands Foundation. (2016). *National Conservation Lands: 2016 Policy Handbook*. Retrieved from <http://conservationlands.org/documents/2016/03/2016-policy-handbook.pdf>

²⁸ U.S. Forest Service. (2015). *The Rising Cost of Wildfire Operations: Effects on the Forest Service's Non-Fire Work*. Retrieved from <https://www.fs.fed.us/sites/default/files/2015-Fire-Budget-Report.pdf>

²⁹ U.S. Const. art. 4, § 3.

these national parks include Grand Canyon, Olympic, Zion, Joshua Tree, and Denali.³⁰ Congress also combined some presidentially created national monuments into adjacent national parks, such as the combination of Jackson Hole National Monument and Grand Teton National Park in 1950.

Congress also has the authority to redesignate land as national wilderness, which would give far stricter regulations than national monument status. For monuments that contain sites that are especially important to Native American tribes, the President and the Secretary could also work with Congress to turn over the land to those tribes.³¹ Finally, the President could work with Congress to evaluate the acceptability of turning land over to individual States or even land privatization. State control of lands may be beneficial because states have a better ability to respond to localized information and utilize federalism to innovate with different land management strategies. Privatization, while politically difficult, should be strongly considered because of the strong stewardship incentive created by private ownership of land.³² We urge the President and the Department of the Interior to consider that the best potential management for many of these areas might require a mixture of designations.

Monuments that May Adhere to the Antiquities Act

Berryessa Snow Mountain National Monument

President Barack Obama designated Berryessa Snow Mountain National Monument on July 10, 2015. The monument is in Northern California and covers 330,780 acres. The area is home to several endemic species and contains unique geologic features, including the seismically active Bartlett Springs fault zone and two tension-crack caves. The area's soils "lack the nutrients most plants need and often contain heavy metals toxic to many plants, resulting in plants that are unique and endemic to this region."³³ In addition, the area contains historic settlements including mineral collection sites, camps from fur trappers, and villages left over from Native Americans. President Obama's proclamation creating the area provides few specific details about the historic features protected within the area. Additionally, while many of the species mentioned in the proclamation are "rare, sensitive, or threatened under Federal or State

³⁰ Others include Lassen Volcanic, Katmai, Great Basin, Bryce Canyon, Carlsbad Caverns, Arches, Glacier Bay, Great Sand Dunes, Death Valley, Saguaro, Black Canyon of the Gunnison, Capitol Reef, Channel Islands, Gates of the Arctic, Kenai Fjords, Kobuk Valley, Lake Clark, and Wrangell-St. Elias.

³¹ Regan, S. (2014, March 13). "5 Ways The Government Keeps Native Americans In Poverty." PERC. Retrieved from <https://www.perc.org/articles/5-ways-government-keeps-native-americans-poverty>

Anderson, T. (1996, July 1). "Conservation Native American Style." PERC. Retrieved from <https://www.perc.org/articles/conservation-native-american-style-full>

³² Anderson, T. L., Smith, V. L., Simmons, E. (1999). *How and Why to Privatize Federal Lands*. Cato Policy Analysis No. 363. Washington, D.C.: The Cato Institute.

³³ Obama, B.H. (2015, July 10). "Presidential Proclamation -- Establishment of the Berryessa Snow Mountain National Monument." The White House Office of the Press Secretary. Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2015/07/10/presidential-proclamation-establishment-berryessa-snow-mountain-national>

law,” others, like rainbow trout, common king snake, American badger, etc., are common and can be found across much of North America.³⁴

The area contains important geologic features and historic artifacts. The area also contains two wilderness areas that were both created in 2006. Protecting the wilderness areas within the monument is redundant, as a wilderness provides much stricter protection to an area than most other land designations. In addition, historic artifacts within wilderness areas are already protected under several other laws and do not require further legal protection.

The monument undoubtedly contains areas of “scientific interest,” as required by the Antiquities Act, but it also contains features that are already protected, or can be found in numerous other places throughout the country. The President could decrease the area of the monument to more closely encompass specific geologic features and specific historic sites.

Canyons of the Ancients National Monument

President Bill Clinton designated Canyons of the Ancients National Monument on June 9, 2000. The monument is in western Colorado near the Utah border and includes over 175,000 acres. President Clinton's justifications for the designation highlighted the fact that the area contains the "highest known density of archaeological sites in the Nation." For example, the presidential proclamation states that "[t]he Mockingbird Mesa area has over forty sites per square mile, and several canyons in that area hold more than three hundred sites per square mile."³⁵

Out of all the recent national monuments under review, Canyons of the Ancients seems to be most in line with the stipulations of the Antiquities Act. The boundaries of the monument, while extensive, do protect areas of historic and scientific interest that comport with the original intention of the Antiquities Act. This monument protects one of the large concentrations of antiquities that the Act was meant to protect.

The President could collaborate with Congress to reevaluate the designation of the area. Mesa Verde National Park is roughly 5.5 miles from the southeast corner of Canyons of the Ancients, which would allow Congress to fold the monument into the existing park if it considered such a decision prudent. If Congress does not believe that the area should be redesignated, leaving the current monument as it is would still comport with the original intentions of the Antiquities Act.

Carrizo Plain National Monument

President Bill Clinton designated Carrizo Plain National Monument on January 17, 2001, in the lame duck period of his presidency. The monument is in southern California and spans just over 204,000 acres. President Clinton's proclamation that created the monument said that the

³⁴ Obama, B.H. (2015, July 10). “Presidential Proclamation -- Establishment of the Berryessa Snow Mountain National Monument.” The White House Office of the Press Secretary. Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2015/07/10/presidential-proclamation-establishment-berryessa-snow-mountain-national>

³⁵ Clinton, W.J. (2000). "Proclamation 7317—Establishment of the Canyons of the Ancients National Monument." The American Presidency Project. Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=62331>

area is the "largest undeveloped remnant" of the grasslands that once existed in the San Joaquin Valley. The monument also contains Soda Lake, which is "the largest remaining natural alkali wetland in southern California." The Carrizo Plain is unique because of its "size, isolation, and relatively undeveloped nature."³⁶

Californians' public response to the review of Carrizo Plain has been nearly unanimously in support of the monument.³⁷ Carrizo Plain is one of the smallest monuments under review. The monument covers the grassland between the Temblor Range and the Caliente Range. Leaving the monument as it is would be justifiable because of the area's unique objects of scientific interest and inconsequential because of minimal public opposition. If the Secretary is looking for a more democratic alternative to the monument designation, the executive branch could work with Congress to redesignate the area.

Craters of the Moon National Monument

In 2000, President Bill Clinton enlarged Craters of the Moon National Monument, originally created in 1924, from 54,000 acres to 661,000 acres.³⁸ The monument is in southern Idaho and is frequently described as a "lunar" landscape. It is the result of ancient volcanic activity, and the expanded monument includes "craters, cones, lava flows, caves, and fissures of the 65-mile-long Great Rift, a geological feature that is comparable to the great rift zones of Iceland and Hawaii." The monument boundaries were adjusted five times prior to Clinton's adjustment. Clinton's presidential proclamation lists specific volcanic features that the monument enlargement contains, including the Kings Bowl lava field, the Wapi lava field, and the Bear Trap lava tube.³⁹

The Great Rift is the longest known rift zone in the contiguous United States, and as such, qualifies as an object of scientific interest. While Craters of the Moon National Monument is exceptionally large, the monument covers area that is not viable for farming or grazing. The designation of the monument and subsequent enlargements have generated little controversy, as the land itself is not directly useful to local communities.

In recent years, some Idahoans have suggested turning the area into Idaho's first national park. Residents of Arco and other surrounding towns think that a national park designation

³⁶ Clinton, W.J. (2001). "Proclamation 7393—Establishment of the Carrizo Plain National Monument." Retrieved from https://www.blm.gov/nlcs_web/sites/style/medialib/blm/ca/nlcs/Carrizo_Plain_NM/docs.Par.35275.File.dat/Carrizo%20Plain%20Proclamation.pdf

³⁷ The Reporter News. (2017, June 10). Legislature urges continued protection of California's national monuments. Retrieved from <http://www.thereporter.com/article/NG/20170610/NEWS/170619990>
Becerra, X. (2017, June 8). Trump administration threatens protections for California's cherished national monuments. Retrieved from <https://medium.com/@AGBecerra/trump-administration-threatens-protections-for-californias-cherished-national-monuments-22dcf519975e>

³⁸ Stahl, G. (2000). Craters expansion finalized. *Idaho Mountain Express and Guide*. Retrieved from <http://archives.mtexpress.com/2000/11-15-00/11-15rift.htm>

³⁹ Clinton, W.J. (2000, November 9). "Proclamation 7373—Boundary Enlargement of the Craters of the Moon National Monument." Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=62283>

would increase tourism in the area and revitalize the local economy.⁴⁰ The President could work with Congress to designate the area as a national park to increase visitation to the area and bring it greater public attention. As it stands now, the monument covers valuable scientific resources and has little to no negative impact on surrounding communities.

Giant Sequoia National Monument

President Bill Clinton created Giant Sequoia National Monument in April 2000. The monument covers 327,769 acres in California and protects several giant sequoia groves. Clinton's proclamation creating the monument states that part of the purpose of the monument is to restore the forests to "counteract the effects of a century of fire suppression and logging." In addition, the proclamation states that since sequoias are so large, their rings contain many "records of past environmental changes such as climate, fire regimes, and consequent forest response." The giant trees provide nesting areas for the California condor, a critically endangered species.⁴¹

Because the main justification for Giant Sequoia National Monument is the scientific value of the forest, the size and scope of the monument is likely valid. The goal of counteracting the effects of fire suppression and logging, however, could be better served through other means, such as more active management plans from the Forest Service. Simply designating the area as a national monument has done nothing on its own to counteract those impacts.

Giant Sequoias are the world's largest trees and exist only in California. The proclamation demonstrates that the area contains objects of scientific interest that should be preserved. As such, the monument is likely valid under the Antiquities Act. The President could encourage Congress to consider incorporating the area into the adjacent Sequoia and Kings Canyon National Parks.

Monuments that May Not Adhere to the Antiquities Act

Basin and Range National Monument

President Barack Obama designated Basin and Range National Monument in July 2015. The monument is found in southeastern Nevada and is approximately 700,000 acres. President Obama's justifications for the monument include the area's topography, ecology, and history. Many historic events, including mining, Native American hunting and gathering, and European settlement occurred within the area, but the only remaining artifacts mentioned by Obama's proclamation are petroglyphs. Many parts of the monument were already federally protected

⁴⁰ Sevren, M., Shaw, S., & Cramer, J. (2016, May 23). *KIVTV*. Retrieved from <http://www.kivitv.com/news/craters-of-the-moon-a-push-for-idahos-1st-national-park>

⁴¹ Clinton, W.J. (2000, April 15). "Proclamation 7295—Establishment of the Giant Sequoia National Monument." Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=62321>

before President Obama's designation. These protected areas included White River Narrows Historic District, Mount Irish Archaeological Area, and the Shooting Gallery rock art site.⁴²

The vague justifications could be used to designate nearly all public lands from the Sierra Nevada in California to the Wasatch Range in Utah. The only unique feature of the monument is that it is one of the more undisturbed areas of the Great Basin. Other areas of historic or scientific interest were already protected prior to the monument's designation. These justifications do not fit within the "smallest area compatible" clause of the Antiquities Act. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Basin and Range National Monument to more appropriately encompass sites of legitimate historic interest, reasonably defined.

The President and the Department of the Interior could work with Congress to incorporate the area into nearby Great Basin National Park if the members of Congress deem it as an appropriate addition. If Congress does not believe that the area should be established as a national park, the executive branch or Congress could revert the area back to its multiple use mandates that were in place before the designation to promote more democratic management of public lands or consider alternative designations.

Bears Ears National Monument

See Strata's previous public comment titled "Public Interest Comment from Strata Policy on Bears Ears National Monument Designation" submitted to the Department of the Interior on May 24, 2017.⁴³ We would also like to express general support for the ideas contained in the Public Interest Comment filed by Brian Seasholes on behalf of the Property and Environment Research Center regarding Bears Ears, especially with respect to a stronger Native American role in the land's management.⁴⁴

Cascade-Siskiyou National Monument

President Bill Clinton originally designated Cascade-Siskiyou National Monument on June 9, 2000. President Barack Obama enlarged the designation in his lame duck period on January 12, 2017. The original monument was located in southwestern Oregon, but the Obama

⁴² Obama, B.H. (2015). "Presidential Proclamation -- Establishment of the Basin and Range National Monument." The White House Office of the Press Secretary. Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2015/07/10/presidential-proclamation-establishment-basin-and-range-national>.

⁴³ Lofthouse, J.K., Harmer, C., Wardle, A.R., Hansen, M.E., & Stevens, L.C. (2017, May 24). Public interest comment from Strata Policy on Bears Ears National Monument designation. Retrieved from <http://strata.org/pdf/papers/bears-ears-5-17.pdf>

⁴⁴ Seasholes, B. (2017, May 25). "Public Comment to the U.S. Department of the Interior on the Review of Certain National Monuments Established Under the Antiquities Act of 1906 Regarding Bears Ears National Monument." Retrieved from <https://www.perc.org/sites/default/files/pdfs/PERC%20Public%20Comment%20to%20the%20U.S.%20Department%20of%20the%20Interior%20on%20the%20Review%20of%20Certain%20National%20Monuments%20Established%20Under%20the%20Antiquities%20Act%20of%201906.pdf>

expansions now include a section in California. The expanded monument now spans roughly 100,000 acres. The original monument designation was meant to protect the biodiversity of the region due to the intersection of several distinct ecoregions. Another protected feature is Pilot Rock, which is a volcanic formation with vertical cliffs. The Obama expansions were meant to protect the biodiversity of the area by creating "habitat connectivity corridors for species migration and dispersal."⁴⁵

The enlargements have been controversial in Oregon. Conservation groups and Oregon's Democratic U.S. Senators lauded the expanded monument. Other organizations, including the Oregon Cattleman's Association, have expressed concern with the enlargement because of the effects on local ranchers, farmers, and recreationists.⁴⁶ The wide justifications in the presidential proclamation could be used to designate nearly all public lands from the Canadian border to central California. The Cascade Range stretches for several hundred miles and is highly biodiverse for its entire length due to the fact that the western slope is largely a temperate rainforest and the eastern slope borders the deserts of the Great Basin and Columbia Plateau. These justifications do not fit within the "smallest area compatible" clause of the Antiquities Act. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Cascade-Siskiyou National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

Gold Butte National Monument

On December 28, 2016, President Obama created Gold Butte National Monument in southeast Nevada. The monument covers 296,937 acres of an area known as Gold Butte within the Mojave Desert. The monument contains the remnants of Native American habitation in the area, including roasting pits, bones, "projectile points," pottery fragments, and petroglyphs. To this day, the Southern Paiute people use the area for religious ceremonies. The monument contains critical habitat for the Mojave desert tortoise, a threatened species under the Endangered Species Act, and is home to Joshua trees, pinyon pine, Utah juniper, sagebrush, and "a variety of creatures, including birds and insects, and [...] a number of plant species."⁴⁷

The proclamation fails to demonstrate that the area contains anything of particular historic or scientific interest that is not already protected under other laws. Most of the species listed in the proclamation can be found throughout deserts of the western United States, and

⁴⁵ Clinton, W.J. (2000, June 9). "Proclamation 7318—Establishment of the Cascade-Siskiyou National Monument." Retrieved from https://www.blm.gov/or/resources/recreation/csnm/files/Proclamation_7318.pdf

Obama, B.H. (2017, January 12). "Presidential Proclamation—Boundary Enlargement of the Cascade-Siskiyou National Monument." Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2017/01/12/presidential-proclamation-boundary-enlargement-cascade-siskiyou-national>

⁴⁶ The Associated Press. (2017, January 13). " Cascade-Siskiyou Monument Expanded." Bend Bulletin. Retrieved from <http://www.bendbulletin.com/localstate/4978577-151/cascade-siskiyoumonument-expanded>

⁴⁷ Obama, B. J. (2016, December 28). "Presidential Proclamation -- Establishment of the Gold Butte National Monument" Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2016/12/28/presidential-proclamation-establishment-gold-butte-national-monument>

those that are listed as endangered or threatened could be safeguarded by existing or future critical habitat designations, which would provide the species more specific protections.

The President and the Department of the Interior could work with Congress to decrease the size of the area to protect specific artifacts and return much of the land to multiple use management or give management authority or ownership to the Moapa Band of Paiutes, some of whom encouraged the designation to protect their ancestral land.⁴⁸ This decision would likely be more democratic than President Obama's executive order and ensure that the specific features of the area that do fit the stipulations of the Antiquities Act are better protected.

Grand Canyon-Parashant National Monument

President Bill Clinton designated Grand Canyon-Parashant National Monument in January 2000, several months before the presidential election and his lame duck period. The monument is found in northern Arizona near the Nevada and Utah borders and is just over one million acres. President Clinton's justifications for the monument include the area's large sandstone cliffs, paleontological resources, and biodiversity, as well as the area's history with Native Americans, Spanish explorers, and Mormon pioneers.⁴⁹

These justifications do not constitute the "smallest area compatible" with the designation of the monument. The broad justifications could be used to designate nearly all public lands north of Grand Canyon National Park and south of Utah's Wasatch Range. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Grand Canyon-Parashant National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

The President could collaborate with Congress to use its authority to incorporate the area into Grand Canyon National Park if the members of Congress deem it as an appropriate addition. If Congress does not believe that the area should be incorporated into Grand Canyon National Park, the executive branch or Congress could revert the area back to its multiple use mandates that were in place before the designation for a more democratic approach to federal land management.

Grand Staircase-Escalante National Monument

President Bill Clinton designated Grand Staircase-Escalante National Monument in September 1996, shortly before the presidential election that would win him a second term. The monument is found in southern Utah and is approximately 1.7 million acres. President Clinton's justifications for the monument include the area's geological formations, such as colorful

⁴⁸ Siegler, K. (2016, August 18). "In Nevada, Tribes Push to Protect Land at the Heart of Bundy Ranch Standoff." *NPR*. Retrieved from <http://www.npr.org/sections/codeswitch/2016/08/18/490498442/in-nevada-tribes-push-to-protect-land-at-the-heart-of-bundy-ranch-standoff>

⁴⁹ Clinton, W.J. (2000). "Proclamation 7265—Establishment of the Grand Canyon-Parashant National Monument". The American Presidency Project. Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=62310>.

sandstone cliffs, natural arches, and slot canyons. In addition, the justifications include the area's biodiversity and history of Native Americans, Spanish explorers, and Mormon pioneers.⁵⁰

Grand Staircase-Escalante may be the largest abuse of the Antiquities Act in recent history. President Clinton's justifications do not constitute the “smallest area compatible” with the 1.7 million acre designation. The extensive justifications could be used to designate nearly all public lands in southern Utah or the entire Colorado Plateau. While there may be legitimate sites of historic or scientific interest within the boundaries of the current designations, the 1.7 million acre designation is much larger than necessary. The Department of the Interior, in its review, should consider reducing the size of Grand Staircase-Escalante National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

The President could encourage Congress to use its authority to designate the area as a separate national park or other preserve, as it has done with other national monuments in the past. Congress could also use its authority to incorporate the area into an adjacent national park or national recreation area, such as Bryce Canyon National Park, Capitol Reef National Park, or Glen Canyon National Recreation Area if the members of Congress find that the entire designation is worthy of protection under the National Park System. If Congress does not believe that the area should be incorporated into the nearby national parks or national recreation areas, the executive branch or Congress could revert the area back to its multiple use mandates that were in place before the designation to promote more democratic management of public lands.

Hanford Reach National Monument

President Bill Clinton created Hanford Reach National Monument on June 9, 2000. The monument is located in the State of Washington along the Columbia River and is over 194,000 acres. The proclamation justifies the designation by specifying the area's sagebrush ecosystems and riparian habitats along the Columbia River. The proclamation also specifies the area's geology, such as the White Bluffs and the Hanford Dune Field, and the area's archeology, including the remains of pithouses, graves, and hunting sites.⁵¹

The wide justifications in the proclamation could be used to designate many public lands across the Columbia Plateau and do not fit within the “smallest area compatible” clause of the Antiquities Act. The Department of the Interior, in its review, should consider reducing the size of Hanford Reach National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

The area could likely be decreased to cover only specific archeological sites, which would return much of the land to its previous multiple use management. Or, if the intent of the monument is just to provide protections to a general stretch of land, the President could work with Congress to redesignate the land as a national park, wilderness, or preserve.

⁵⁰ Clinton, W.J. (1996). "Proclamation 6920—Establishment of the Grand Staircase-Escalante National Monument". The American Presidency Project. Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=51948>.

⁵¹ Clinton, W.J. (2000, June 9). "Proclamation 7319—Establishment of the Hanford Reach National Monument." Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=62329>

Ironwood Forest National Monument

President Bill Clinton created Ironwood Forest National Monument on June 9, 2000. The monument is found in Arizona's Sonoran Desert and is nearly 130,000 acres. President Clinton's justifications for the monument include the presence of desert plants and animals. The monument also contains "more than 200 sites from the prehistoric Hohokam period," as well as two areas that had already been listed on the National Register of Historic Places, the Los Robles Archeological District and the Cocoraque Butte Archeological District.⁵²

The proclamation's wide justifications could be used to designate nearly all public lands in the Sonoran Desert. These justifications do not fit within the "smallest area compatible" clause of the Antiquities Act. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Ironwood Forest National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

Mojave Trails National Monument

President Barack Obama designated Mojave Trails National Monument in February 2016. The monument is found in southern California and is approximately 1.6 million acres. President Obama's justifications for the monument include the area's geology, paleontological resources, rare plants, Native American history, and history of transportation with the Southern Pacific railroad and Route 66.⁵³

The sweeping justifications could be used to designate nearly all public lands in from the in the Mojave Desert of southern California. All areas of the Mojave Desert contain the same features that are mentioned in the monument's proclamation. These justifications do not fit within the "smallest area compatible" clause of the Antiquities Act. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation.

The President could work with Congress to use its authority to incorporate the area into the adjacent Mojave National Preserve or Joshua Tree National Park. Congress could also designate the monument as its own national park. If members of Congress do not find that the monument is worthy of protecting as a national park or national preserve, then the executive branch or Congress could revert the area back to its multiple use mandates that were in place before the designation to promote more democratic management of public lands.

Organ Mountains-Desert Peaks National Monument

President Barack Obama established Organ Mountains-Desert Peaks National Monument on May 21, 2014. The monument is located in southern New Mexico and contains approximately

⁵² Clinton, W.J. (2000, June 9). "Proclamation 7320—Establishment of the Ironwood Forest National Monument." Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=62320>

⁵³ Obama, B.H. (2016). "Presidential Proclamation -- Establishment of Mojave Trails National Monument." The White House Office of the Press Secretary. Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2016/02/12/presidential-proclamation-establishment-mojave-trails-national-monument>

496,000 acres. President Obama's justifications for the monument include "five iconic mountain ranges," Native American archaeology, history of the Wild West, and Chihuahuan Desert ecology.⁵⁴

The wide justifications could be used to designate nearly all public lands in the Chihuahuan Desert. These justifications do not fit within the "smallest area compatible" clause of the Antiquities Act. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Organ Mountains-Desert Peaks National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

Rio Grande del Norte National Monument

On March 25, 2013, President Barack Obama established Río Grande del Norte National Monument in northern New Mexico. The monument spans 242,555 acres. The presidential proclamation justifies the designation by specifying the area's unique geology of volcanic cones and deep canyons, as well as scattered archaeological remains, such as petroglyphs, rock art, and other remnants of daily life for ancient Native Americans.⁵⁵

The wide justifications could be used to designate nearly all public lands in southern Colorado and northern New Mexico. These justifications do not fit within the "smallest area compatible" clause of the Antiquities Act. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Río Grande del Norte National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

The President could work with Congress to redesignate the land or turn the land over to Native American tribes who have cultural and historic ties to it. For example, leaders of the Taos Pueblo have supported the national monument. The War Chief of the Taos Pueblo, Benito Sandoval, said, "I applaud President Obama protecting Río Grande del Norte National Monument because many of the wildlife species that live in that corridor come in and out of this area. Left unprotected, there may be very few animals available that the Native American people of Taos Pueblo depend on for food, clothing and shelter."⁵⁶ The President could work with Congress to turn over part or all of the national monument so that local Native Americans can manage the lands to maintain the amenities that they depend on. If Congress does not believe

⁵⁴ Obama, B.H. (2014, May 21). "Presidential Proclamation—Organ Mountains-Desert Peaks National Monument." Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2014/05/21/presidential-proclamation-organ-mountains-desert-peaks-national-monument>

⁵⁵ Obama, B.H. (2013, March 25). "Presidential Proclamation—Río Grande del Norte National Monument." Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2013/03/25/presidential-proclamation-r-o-grande-del-norte-national-monument>

⁵⁶ ICMN Staff. (2013, March 26). "Obama Proclaims Río Grande del Norte a National Monument, Significant Site for Natives." *Indian Country Today*. Retrieved from <https://indiancountrymedianetwork.com/travel/destinations/obama-proclaims-ro-grande-del-norte-a-national-monument-significant-site-for-natives/>

that the area should be established as a national park or returned to Native American tribes, Congress could revert the area back to its multiple use mandates that were in place before the designation to promote more democratic management of public lands.

Sand to Snow National Monument

On February 12, 2016, President Barack created Sand to Snow National Monument in southern California. The monument includes 154,000 acres of federal land. President Obama justified his use of the Antiquities Act by citing the area's geology and ecology of deserts and mountains. President Obama also cites that 30 miles of the already-protected Pacific Crest National Scenic Trail run through Sand to Snow. The area also contains scattered artifacts of Native American history, Spanish settlement, and Wild West exploration.⁵⁷

Of Sand to Snow's 154,000 acres, over 100,000 acres of that designation are already congressionally-designated wilderness area.⁵⁸ This makes almost all of the national monument designation superfluous because most of the monument already has the strictest protections that the federal government can extend. The wide justifications could be used to designate nearly all public lands along the eastern slope of the Sierra Nevada. These justifications do not fit within the "smallest area compatible" clause of the Antiquities Act. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Sand to Snow National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

San Gabriel Mountains National Monument

President Barack Obama designated San Gabriel Mountains National Monument on October 10, 2014. The monument is located near Los Angeles, California, and is over 346,000 acres. President Obama justified the monument by citing the area's already-existing protections. For example, the proclamation mentions several protected areas like the Aliso-Arrastre Special Interest Area, four designated wilderness areas, Angeles National Forest, several National Recreational Trails, and the Pacific Crest National Scenic Trail.⁵⁹

The justifications for this monument do not fit within the "smallest area compatible" clause of the Antiquities Act and do not comport with the "historic or scientific interest" clause. Because the area was already one of the most heavily protected areas in the United States prior to the 2014 designation, the national monument does little, if anything, to give additional

⁵⁷ Obama, B.H. (2016, February 12). "Presidential Proclamation—Establishment of the Sand to Snow National Monument." Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2016/02/12/presidential-proclamation-establishment-sand-snow-national-monument>

⁵⁸ U.S. Bureau of Land Management. (n.d.). Sand to Snow National Monument. Retrieved from https://www.blm.gov/nlcs_web/sites/ca/st/en/prog/nlcs/Sand-to-Snow.html

⁵⁹ Obama, B.H. (2014, October 10). "Presidential Proclamation -- San Gabriel Mountains National Monument." Retrieved from <https://obamawhitehouse.archives.gov/the-press-office/2014/10/10/presidential-proclamation-san-gabriel-mountains-national-monument>

protections to the area. The proclamation does not adequately justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of San Gabriel Mountains National Monument to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

Sonoran Desert National Monument

President Bill Clinton created Sonoran Desert National Monument on January 17, 2001, during his lame duck period. The monument lies just south of Phoenix and covers 486,149 acres of the Sonoran Desert. The area contains many desert species, including the saguaro cactus, bobcats, mule deer, mountain lions, junipers, along with some endangered species like the Sonoran Pronghorn, acuna pineapple, and the lesser long-nosed bat. In addition, the area contains historic trails like the Juan Bautista de Anza National Historic Trail, the Mormon Battalion Trail, and the Butterfield Overland Stage Route.⁶⁰

The area may contain specific features of historic or scientific interest, such as the historical trails that cross the land. These trails were already protected before the monument designation, making the monument designation largely superfluous. Many of the species that live in the monument can be found throughout the entire Sonoran Desert, and those that are listed as endangered or threatened could be protected through existing or future critical habitat designations, which would provide the species more specific protections.

Upper Missouri River Breaks National Monument

President Bill Clinton designated Upper Missouri River Breaks National Monument during his lame duck period in January 2001. The monument is found in northern Montana along the Missouri River and is nearly 400,000 acres. President Clinton's justifications for the monument include the area's historical connections to Native Americans and the Lewis and Clark Expedition, as well as eroded sedimentary cliffs and common wildlife. Even in the proclamation that established the monument, President Clinton admits that the monument designation is redundant because of other federal protections to the area: "In 1976, the Congress designated the Missouri River segment and corridor in this area a National Wild and Scenic River (Public Law 94-486, 90 Stat. 2327). The monument also encompasses areas that are already protected, including the Lewis and Clark National Historic Trail, the Nez Perce National Historic Trail, and the Cow Creek Island Area of Critical Environmental Concern."⁶¹ The monument also includes six wilderness study areas and the Fort Benton National Historic Landmark.⁶²

These justifications do not constitute the "smallest area compatible" with the designation

⁶⁰ Clinton, W.J. (2001, January 17). "Sonoran Desert National Monument Proclamation." Retrieved from https://www.blm.gov/nlcs_web/sites/style/medialib/blm/az/images/son_des.Par.30940.File.dat/proclamation.pdf

⁶¹ Clinton, W.J. (2001). "Proclamation 7398—Establishment of the Upper Missouri River Breaks National Monument." The American Presidency Project. Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=62516>.

⁶² Bureau of Land Management. (n.d.) "Upper Missouri River Breaks National Monument." Retrieved from https://www.blm.gov/nlcs_web/sites/mt/st/en/prog/nlcs_new/UMRB_NM.html

of the monument. The wide-sweeping justifications could be used to designate nearly all public lands from the headwaters of the Missouri River to the North Dakota border. Sedimentary cliffs, the Lewis and Clark Trail, and wildlife are common for hundreds of miles in every direction from Upper Missouri River Breaks. The sites of historic or scientific interest offered in the proclamation do not justify the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Upper Missouri River Breaks to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined.

The President could work with Congress to use its authority to combine the monument with the adjacent Charles M. Russell National Wildlife Refuge. Alternatively, the executive branch or Congress could revert the area back to its multiple use mandates that were in place before the designation. Both of these approaches would be more democratic.

Vermilion Cliffs National Monument

President Bill Clinton designated Vermilion Cliffs National Monument during his lame duck period in November 2000. The monument is found in northern Arizona along the Utah border and is nearly 300,000 acres. President Clinton's justifications for the monument include the area's "sandstone slickrock, brilliant cliffs, and rolling sandy plateaus," as well as the area's history of Spanish explorers and Mormon pioneers. The presidential proclamation that established the national monument also extolled the area's plant and animal species, such as desert bighorn sheep, pronghorn antelope, and mountain lion.⁶³ In 1984, Congress protected much of the land within the current national monument in the Paria Canyon-Vermilion Cliffs Wilderness.⁶⁴

It is difficult to argue that these justifications constitute the "smallest area compatible" with the designation of the monument — such justifications could be used to designate nearly all public lands on the Colorado Plateau. Sandstone cliffs, Mormon historical sites, and desert bighorn sheep are common for hundreds of miles in every direction from Vermilion Cliffs. None of the sites of legitimate historic or scientific interest offered in the proclamation fulfill the burden of defending the full extent of the designation. The Department of the Interior, in its review, should consider reducing the size of Vermilion Cliffs to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined. The definition of "scientific interest" can easily be extended to the point of legal meaninglessness, but without a robust explanation for a particular area's unique value, the Antiquities Act is left open for rampant abuse.

Because the area contains some areas of interest, the President could work with Congress to designate the entire area or parts of the current monument as a national park, as it has done

⁶³ Clinton, W. J. (2000). "Proclamation 7374—Vermilion Cliffs National Monument." The American Presidency Project. Retrieved from <http://www.presidency.ucsb.edu/ws/?pid=62318>.

⁶⁴ Bureau of Land Management. (n.d.) "VERMILION CLIFFS NATIONAL MONUMENT PARIA CANYON/VERMILION CLIFFS WILDERNESS PARIA CANYON PERMIT AREA." Retrieved from <https://www.blm.gov/programs/recreation/permits-and-passes/lotteries-and-permit-systems/arizona/paria-canyon>

with national monuments in the past. The President could also work with Congress to incorporate all or parts of the monument into the adjacent Glen Canyon National Recreation Area or nearby Grand Canyon National Park. Alternatively, the executive branch or Congress could revert the area back to its multiple use mandates that were in place before the designation. This approach would be more democratic.

Conclusion

Although many Americans value the idea of land preservation, many recent national monument designations have abused executive power and done little to increase land protections. The current review is about more than just national monuments themselves. This review of national monuments can be an opportunity for the President and the Secretary to restore the appropriate use of executive power.

As requested by the Department of the Interior, we have identified several reasons why some recent national monuments do not reflect the “requirements and original objectives” of the Antiquities Act and do not “appropriately balance the protection” of objects of interest.⁶⁵ Many of the monuments violate the plain reading of law by being significantly larger than “the smallest area compatible with the proper care and management of the objects to be protected” and include many objects for protection beyond the scope of the Antiquities Act. Several monuments violate the stated purpose of the Antiquities Act because their designations were used as a tool to build a president’s environmental legacy. There is historical precedent for the executive to unilaterally reduce the size of improper designations. Many national monument designations do little to give additional protection to the amenities described in presidential proclamations, and federal land managers may not have adequate resources to properly fulfill their responsibilities on recently designated national monuments.

We recommend that the Secretary of the Interior take several courses of action. First, the Department of the Interior, in its review, should consider reducing the size of some national monuments to more appropriately encompass sites of legitimate historic and scientific interest, reasonably defined. Second, the Department of the Interior should reevaluate previous designations to ascertain both whether they were originally valid and/or continue to be necessary. If either of those conditions is not met, the President and Secretary should seek to redraw the monuments’ boundaries in accordance with the size and scope limitations present in the text of the Antiquities Act.

The President and Secretary could also work with Congress to redesignate these national monuments as national parks or revert the land back to its multiple use mandates as public land. Article 4, section 3, clause 2 of the U.S. Constitution expressly gives Congress the “power to dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging to the United States.” By collaborating more with Congress on national monuments, the President and the Secretary could take advantage of the democratic compromises that take place within Congress. More democratic approaches to public land designations are important to balance many competing interests. Limiting the nearly unlimited power of the president to designate national monuments is important for checks and balances as well as the rule of law.

⁶⁵ Review of Certain National Monuments Established Since 1996, *supra*.

Appendix 1: Sizes of All President-Created National Monuments at their Establishment

Our calculated averages for before and after 1970 do not include marine monuments, post-designation enlargements or reductions, or monuments designated by Congress. They do include the initial designations of monuments that were later redesignated as some different form of land protection.

Monuments established prior to 1970:

Monument Name	Date Established	President	Initial Acreage
Devils Tower	9/24/06	T. Roosevelt	1193.91
Petrified Forest	12/8/06	T. Roosevelt	60776.02
Montezuma Castle	12/8/06	T. Roosevelt	161.39
El Morro	12/8/06	T. Roosevelt	160
Chaco Canyon	3/11/07	T. Roosevelt	10643.13
Lassen Peak	5/6/07	T. Roosevelt	1280
Cinder Cone	5/6/07	T. Roosevelt	5120
Gila Cliff Dwellings	11/16/07	T. Roosevelt	160
Tonto	12/19/07	T. Roosevelt	640
Muir Woods	1/9/08	T. Roosevelt	295
Grand Canyon	1/11/08	T. Roosevelt	808120
Pinnacles	1/16/08	T. Roosevelt	1320

Jewel Cave	2/7/08	T. Roosevelt	1274.56
Natural Bridges	4/16/08	T. Roosevelt	120
Lewis and Clark Cavern	5/11/08	T. Roosevelt	160
Tumacacori	9/15/08	T. Roosevelt	10
Wheeler	12/7/08	T. Roosevelt	300
Mount Olympus	3/2/09	T. Roosevelt	639200
Navajo	3/20/09	Taft	360
Oregon Caves	7/12/09	Taft	465.8
Mukuntu-weap/Zion	7/31/09	Taft	16000
Shoshone Cavern	8/21/09	Taft	210
Salinas Pueblo Missions (previously Gran Quivira)	11/1/09	Taft	160
Sitka	3/23/10	Taft	57
Rainbow Bridge	5/30/10	Taft	160
Big Hole Battlefield	6/23/10	Taft	5
Colorado	5/24/11	Taft	13883.06
Devils Postpile	7/6/11	Taft	768.46
Cabrillo	10/14/13	Wilson	0.5
Papago Saguaro	1/31/14	Wilson	2050.43

Dinosaur	10/4/15	Wilson	80
Walnut Canyon	11/30/15	Wilson	960
Bandelier	2/11/16	Wilson	23352
Sieur de Monts	7/8/16	Wilson	5000
Capulin Volcano (previously Capulin Mountain)	8/9/16	Wilson	640.42
Old Kasaan	10/25/16	Wilson	43
Verendrye	6/29/17	Wilson	253.04
Casa Grande Ruins	8/3/18	Wilson	480
Katmai	9/24/18	Wilson	1088000
Scotts Bluff	12/12/19	Wilson	2053.83
Yucca House	12/19/19	Wilson	9.6
Lehman Caves	1/24/22	Harding	593.03
Timpanogos Cave	10/14/22	Harding	250
Fossil Cycad	10/21/22	Harding	320
Aztec Ruins	1/24/23	Harding	4.6
Mound City Group	3/2/23	Harding	57
Hovenweep	3/2/23	Harding	285.8
Pipe Spring	5/31/23	Harding	40

Bryce Canyon	6/8/23	Harding	7440
Carlsbad Cave	10/25/23	Coolidge	719.22
Chiricahua	4/18/24	Coolidge	3655.12
Craters of the Moon	5/2/24	Coolidge	22651.8
Fort Matanzas	10/15/24	Coolidge	1
Castillo de San Marcos (previously Fort Marion)	10/15/24	Coolidge	18.51
Fort Pulaski	10/15/24	Coolidge	20
Castle Pinckney	10/15/24	Coolidge	3.5
Statue of Liberty (previously Fort Wood)	10/15/24	Coolidge	2.5
Wupatki	12/9/24	Coolidge	2234.1
Meriwether Lewis	2/6/25	Coolidge	50
Glacier Bay	2/26/25	Coolidge	1379315.58
Father Millet Cross	9/5/25	Coolidge	0.0074
Lava Beds	11/21/25	Coolidge	45589.92
Arches	4/12/29	Hoover	4520
Holy Cross	5/11/29	Hoover	1392
Sunset Crater Volcano (previously Sunset Crater)	5/30/30	Hoover	3040

Canyon de Chelly	4/1/31	Hoover	83840
Great Sand Dunes	3/17/32	Hoover	35528.36
Grand Canyon II	12/22/32	Hoover	273145
White Sands	1/18/33	Hoover	131486.84
Death Valley	2/11/33	Hoover	848581.36
Saguaro	3/1/33	Hoover	53510.08
Black Canyon of the Gunnison	3/2/33	Hoover	10287.95
Cedar Breaks	8/22/33	F. Roosevelt	5701.39
Fort Jefferson	1/4/35	F. Roosevelt	47125
Joshua Tree	8/10/36	F. Roosevelt	825340
Zion II (Kolob)	1/22/37	F. Roosevelt	49150
Organ Pipe Cactus	4/13/37	F. Roosevelt	330690
Capitol Reef	8/2/37	F. Roosevelt	37060
Channel Islands	4/26/38	F. Roosevelt	1119.98
Fort Laramie	7/16/38	F. Roosevelt	214.41
Santa Rosa Island	5/17/39	F. Roosevelt	9500
Tuzigoot	7/25/39	F. Roosevelt	42.67
Jackson Hole	3/15/43	F. Roosevelt	210950

Effigy Mounds	10/25/49	Truman	1000
Edison Laboratory	7/14/56	Eisenhower	1.51
Chesapeake & Ohio Canal	1/18/61	Eisenhower	5263.94
Russell Cave	5/11/61	Kennedy	310.45
Buck Island Reef	12/28/61	Kennedy	850
Marble Canyon	1/20/69	Johnson	32546.69

Monuments Established After 1970:

Misty Fjords	12/1/78	Carter	2285000
Aniakchak	12/1/78	Carter	350000
Admiralty Island	12/1/78	Carter	1100000
Becharof	12/1/78	Carter	1200000
Bering Land Bridge	12/1/78	Carter	2590000
Cape Krusenstern	12/1/78	Carter	560000
Denali	12/1/78	Carter	3890000
Gates of the Arctic	12/1/78	Carter	8220000
Kenai Fjords	12/1/78	Carter	570000
Kobuk Valley	12/1/78	Carter	1710000

Lake Clark	12/1/78	Carter	2500000
Noatak	12/1/78	Carter	5880000
Wrangell-St. Elias	12/1/78	Carter	10950000
Yukon-Charley Rivers	12/1/78	Carter	1720000
Yukon Flats	12/1/78	Carter	10600000
Grand Staircase-Escalante	9/18/96	Clinton	1700000
Agua Fria	1/11/00	Clinton	71100
Grand Canyon-Parashant	1/11/00	Clinton	1014000
California Coastal	1/11/00	Clinton	883
Giant Sequoia	4/15/00	Clinton	327769
Hanford Reach	6/8/00	Clinton	195000
Ironwood Forest	6/9/00	Clinton	128917
Canyons of the Ancients	6/9/00	Clinton	164000
Cascade-Siskiyou	6/9/00	Clinton	52000
President Lincoln and Soldiers' Home	7/7/00	Clinton	2.3
Vermilion Cliffs	11/9/00	Clinton	293000
Carrizo Plain	1/12/01	Clinton	204107
Sonoran Desert	1/17/01	Clinton	486149

Pompeys Pillar	1/17/01	Clinton	51
Upper Missouri River Breaks	1/17/01	Clinton	377346
Kasha-Katuwe Tent Rocks	1/17/01	Clinton	4148
Virgin Islands Coral Reef	1/17/01	Clinton	12708
Minidoka Internment	1/17/01	Clinton	72.75
Governors Island	1/19/01	Clinton	20
African Burial Ground	2/27/06	Bush	0.345
Papahānaumokuākea Marine (previously Northwestern Hawaiian islands)	6/15/06	Bush	140000 (sq. miles)
World War II Valor in the Pacific	12/5/08	Bush	6310
Rose Atoll Marine	1/6/09	Bush	13451 (sq. miles)
Marianas Trench Marine	1/6/09	Bush	95216 (sq. miles)
Pacific Remote Islands Marine	1/6/09	Bush	86888 (sq. miles)
Fort Monroe	11/1/11	Obama	325.21
Fort Ord	4/20/12	Obama	14651
Chimney Rock	9/21/12	Obama	4726
César E. Chávez	10/8/12	Obama	10.5
First State	3/25/13	Obama	1108

Harriet Tubman Underground Railroad	3/25/13	Obama	11750
Río Grande del Norte	3/25/13	Obama	242555
Charles Young Buffalo Soldiers	3/25/13	Obama	59.65
San Juan Islands	3/25/13	Obama	970
Organ Mountains-Desert Peaks	5/21/14	Obama	496330
San Gabriel Mountains	10/10/14	Obama	346177
Browns Canyon	2/19/15	Obama	21586
Honouliuli	2/19/15	Obama	123
Pullman	2/19/15	Obama	0.2397
Berryessa Snow Mountain	7/10/15	Obama	330780
Basin and Range	7/10/15	Obama	704000
Waco Mammoth	7/10/15	Obama	7.11
Sand to Snow	2/12/16	Obama	154000
Mojave Trails	2/12/16	Obama	1600000
Castle Mountains	2/12/16	Obama	20920
Belmont-Paul Women's Equality	4/12/16	Obama	0.34
Stonewall	6/24/16	Obama	0.12
Katahdin Woods and Waters	8/24/16	Obama	87500

Northeast Canyons and Seamounts Marine	9/15/16	Obama	4913 (sq. miles)
Gold Butte	12/28/16	Obama	296937
Bears Ears	12/28/16	Obama	1351849
Birmingham Civil Rights	1/12/17	Obama	0.88
Freedom Riders	1/12/17	Obama	5.96
Reconstruction Era	1/12/17	Obama	15.56