

To: Elizabeth Appel[elizabeth.appel@bia.gov]
From: Simpson, Shannon
Sent: 2017-06-23T11:52:32-04:00
Importance: Normal
Subject: Fwd: Still need assistance with comments?
Received: 2017-06-23T11:52:46-04:00
[COMMENT MATRIX Monuments Simpson June 2017.xlsx](#)
[Portland 05-25-2017 TRANSCRIPT.pdf](#)
[Phoenix, AZ 06-01-17 TRANSCRIPT.pdf](#)
[Billings, MT 05-30-2017 TRANSCRIPT.pdf](#)

FYI. I'm sorry I only got through the first 10 comments. Some of my 'summaries' may be a bit lengthy; I was trying to find some key quotations to put in there. ;) I sent Amanda the spreadsheet and the 3 transcripts I didn't get to!

Thanks!

Shannon G. Simpson
Office of Regulatory Affairs & Collaborative Action
Office of the Assistant Secretary Indian Affairs, U.S. Department of the Interior
12220 Sunrise Valley Drive, Room #6075
Reston, VA 20191
(703) 390 6328

----- Forwarded message -----

From: **Simpson, Shannon** <shannon.simpson@bia.gov>
Date: Fri, Jun 23, 2017 at 11:50 AM
Subject: Re: Still need assistance with comments?
To: "Begay, Amanda" <amanda.begay@bia.gov>

That is great! I have done the first 10 comments, but did not get to the 3 transcripts. I am sending you my spreadsheet and the 3 transcripts. Can you add them? Then check with Liz to see what other comments need to be added.

Thank you so much!!

Shannon G. Simpson
Office of Regulatory Affairs & Collaborative Action
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On Fri, Jun 23, 2017 at 10:58 AM, Begay, Amanda <amanda.begay@bia.gov> wrote:

Hi Shannon -

I reached out to Liz to see if help is still needed for the regulatory comments and she wanted me to touch base with you. She mentioned there were more Monument comments to go through, so when you get a chance, please let me know what I can help with!

Thanks!

Amanda

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From: **Appel, Elizabeth** <elizabeth.appel@bia.gov>

Date: Fri, Jun 23, 2017 at 10:38 AM

Subject: Re: Still need assistance with comments?

To: "Begay, Amanda" <amanda.begay@bia.gov>

Hi Amanda-

That would be great - thank you so much! Do you want to first check with Shannon to see if she needs help on the Monuments comments? If not, I'm working on the Reorg comments, but I think her batch is bigger to go through.

Thanks again!

Liz

On Thu, Jun 22, 2017 at 4:03 PM, Begay, Amanda <amanda.begay@bia.gov> wrote:

Hi Liz -

I have a couple of policies that are with the programs for review which leaves me with some time to assist with regulatory comments. Let me know what I can do to help out! :)

Thanks!

Amanda

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Amanda Begay
Office of Regulatory Affairs & Collaborative Action
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Amanda Begay
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Tribal Listening Session re E.O. 13792
vs.

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OFFICE OF THE ASSISTANT SECRETARY - INDIAN AFFAIRS
TRIBAL LISTENING SESSION
Executive Order 13792
Review of Designations Under the Antiquities Act

June 1, 2017
Phoenix, Arizona
1:07 p.m.

Prepared for:
Department of the Interior

(Original)

Prepared By:
Kimberly Portik, RMR, CRR
Certified Reporter
Certificate No. 50149
CANYON STATE REPORTING
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1 MR. JANSSEN: I think we'll wait another
2 couple minutes to see if people will trickle in.

3 Also, there are additional handouts at the
4 door. There were handouts in the morning session, but
5 they are different, in case people didn't pick them up.
6 Thanks.

7 All right. So I think we're going to start
8 this listening session. So I'm going to call this
9 listening session to order. This listening session is on
10 Executive Order 13792, Review of Designations Under the
11 Antiquities Act.

12 Executive Order 13792 was issued by
13 President Trump on April 26th, 2017, and requires the
14 Secretary of Interior to review national monuments that
15 have been designated or expanded since January 1st, 1996,
16 where the designation covers more than 100,000 acres or
17 where the Secretary determines that the designation or
18 expansion was made without adequate public outreach and
19 coordination with relevant stakeholders. Twenty-seven
20 monuments have been identified by the Department of
21 Interior for review, and they are listed in the handouts
22 provided at the door.

23 The Secretary must use several factors in
24 evaluating the national monuments to determine whether
25 each designation or expansion conforms to the policy of

1 Executive Order 13792. The policy is described in
2 Section 1 of the executive order, and the factors for
3 review are listed in the handout that we provided at the
4 door in this handout sheet.

5 Some key deadlines. The Secretary must make
6 recommendations to the President on any Presidential
7 actions, legislative proposals, or appropriate actions to
8 carry out the policy of the executive order. The
9 Secretary's interim report to the President is due by
10 June 10th and must make recommendations on Bears Ears.
11 The final report is due to the President on August 24th,
12 2017, summarizing the findings of the review and providing
13 recommendations.

14 Written comments are also being accepted for
15 the national monument discussion. The deadline for Bears
16 Ears comments was -- it has passed now, it's May 26th, and
17 for all other monuments it's until July 10th. However,
18 tribal leaders -- even though the deadline has passed,
19 tribal leaders can still submit comments, and the
20 Department is accepting written comments from tribal
21 leaders still at this time.

22 A couple questions regarding -- or questions
23 to think about today to help guide the conversation, are
24 there any monuments, in addition to the 27 currently being
25 reviewed, that should also be reviewed because they were

1 designated after July 1st, 1996, without adequate public
2 outreach and coordination with relevant stakeholders?

3 And additionally, what are your comments or
4 views on the application of the seven factors listed in
5 the executive order that the Secretary of Interior is to
6 use in reviewing the 27 monument designations, or should
7 there be other factors that should be considered?

8 So that's what we're receiving comments on
9 today, and so at this point in time I will turn to the two
10 people also on this panel.

11 Thank you.

12 MS. ORTIZ: Good afternoon, everyone, and
13 welcome to this listening session. My name is Hankie
14 Ortiz. I'm a member of the Kiowa Tribe from Oklahoma, and
15 I am currently acting as the deputy bureau director for
16 field operations. So I work with all 12 regions across
17 the country, and I work directly with the Director of
18 Bureau of Indian Affairs, Bruce Loudermilk.

19 MR. MAHONEY: Good afternoon. My name is
20 Ken Mahoney. I'm with the Bureau of Land Management here
21 in Phoenix, Arizona. I work at the Arizona state office,
22 which is here in downtown Phoenix. I'm the program lead
23 for the national monuments, national conservation areas,
24 wilderness areas, and wild and scenic rivers in Arizona on
25 BLM lands under BLM management.

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1 We have four of the national monuments that
2 are under review here in Arizona. They are Grand
3 Canyon-Parashant National Monument and Vermilion Cliffs
4 National Monument in the northern part of the state in the
5 Arizona Strip district. We have Sonoran Desert National
6 Monument to the southwest of Phoenix, in the Phoenix
7 district. And we also have Ironwood Forest National
8 Monument between Phoenix and Tucson, to the west of I-10,
9 Silver Bell Mountains that is under the management of the
10 Tucson field office, so the Gila district.

11 So with that, I'll turn it back.

12 MR. JANSSEN: Thank you.

13 And before I forget, my name is Miles
14 Janssen. I'm a counselor to the Assistant Secretary of
15 Indian Affairs. I'm an enrolled member of the Tlingit and
16 Haida Indian Tribes of Alaska. I've been in this position
17 since May of 2015.

18 So with that, I'd like to open it up for any
19 comments from any tribal leaders. And when you speak, if
20 you could just state your name and your tribal affiliation
21 and also if you could spell your name for the court
22 reporter, that will be helpful as well. So thank you.

23 MR. BEGAYE: Russell Begaye, Navajo Nation.
24 R-u-s-s-e-l-l, B-e-g-a-y-e. And also President of the
25 Navajo Nation.

1 So I want to make a statement. First of
2 all, I just want to say that the Navajo Nation with the
3 Navajo Nation Council both approve -- it was off.

4 Russell Begaye, Navajo Nation President.
5 And I want to say that the Navajo Nation, in concert with
6 the Navajo Nation Council, have been supporting Bears Ears
7 through different legal documents that's been passed by
8 the executive branch and also by the legislative branch of
9 the Navajo Nation.

10 And I want to provide three documentation.
11 One is what we submitted from the Office of the President,
12 Vice President, supporting the designation of Bears Ears
13 as a national monument. And then secondly, which I want
14 to read, is the resolution that was passed by the Navajo
15 Nation Council, where it states, relating to
16 Naabik'i'ya'ti', supporting the proclamation establishing
17 the Bears Ears National Monument by the President of the
18 United States and oppose congressional action to reverse
19 the Presidential proclamation. A statement of policy,
20 enactment of policy of law and intergovernmental
21 agreements, budget resolution, and reallocation must be
22 reviewed and approved by resolution by the appropriate
23 senate committee and the Navajo Nation Council except as
24 otherwise provided.

25 Talks about the Navajo Nation has a

1 government-to-government relationship with the United
2 States of America based on treaty of 1868. The Navajo
3 Nation hereby supports the proclamation establishing the
4 Bears Ears National Monument by the President of the
5 United States, attached hereto as exhibit.

6 Abundant rock art, ancient cliff dwellings,
7 ceremonial sites, and countless other artifacts provide an
8 extraordinary archaeological and cultural record that is
9 important to us all. But most notably, the land is
10 profoundly sacred to many Native American tribes,
11 including the Ute Mountain Ute Tribe, Navajo Nation, Ute
12 Indian Tribe of the Uintah and Ouray, Hopi Nation, and
13 Zuni Tribe. The protection of Bears Ears area will
14 preserve its cultural, prehistoric, and historic legacy
15 and maintain its diverse array of natural and scientific
16 resources, ensure that the prehistoric, historic, and
17 scientific values of this area remain for the benefit of
18 all Americans.

19 The Bears Ears area has been proposed for
20 protection by members of congress, Secretaries of the
21 Interior, state and tribal leaders and local
22 conservationists for at least 80 years. The Antiquities
23 Act authorizes the President, in his discretion, to
24 declare by public proclamation historic landmarks,
25 historic and prehistoric structures, and other objects of

1 historic or scientific interest that are situated upon
2 lands owned or controlled by the federal government to be
3 national monuments.

4 The Navajo Nation opposes any further
5 congressional action to reverse the Presidential
6 proclamation in establishing the Bears Ears National
7 Monument. The people of Utah include many Native American
8 tribes, and to undo the designation would not honor the
9 will of the people of Utah. The Navajo Nation finds it in
10 the best interest of the Navajo people to support the
11 proclamation establishing the Bears Ears National Monument
12 by the President of the United States and oppose further
13 congressional action to reverse the Presidential
14 proclamation.

15 Now, therefore, be it resolved the Navajo
16 Nation hereby authorizes the Navajo Nation President, the
17 Navajo Nation Speaker, the Navajo Nation Chief Justice and
18 their designee to support the proclamation establishing
19 the Bears Ears National Monument by the President of the
20 United States and to advocate support from the 115th
21 Congress and the Trump Administration to oppose further
22 congressional action to reverse the Presidential
23 proclamation.

24 And by the Speaker of the Navajo Nation
25 Council, he writes: I hereby certify that the foregoing

1 resolution was duly considered by the Naabik'i'ya'ti'
2 committee at the 23rd Navajo Nation Council at the duly
3 called meeting in Window Rock, Arizona.

4 So we want to provide this as exhibit to
5 the -- and also we have also for submission comments that
6 were made by Navajo Nation, the Hopi Nation, by the Ute
7 Mountain Ute Tribe, the Ute Indian Tribe, and the Zuni
8 Pueblo. We will submit these three documents.

9 And I also want to say that as President of
10 the Navajo Nation we offer thanks and sincere appreciation
11 to the designation of Bears Ears as a national monument,
12 which we believe was in response to Navajo and other
13 tribes' request to protect and secure the Bears Ears area
14 for future generations.

15 The Bears Ears region is a special,
16 distinctive, and significant place to surrounding Tribes
17 as well as our Navajo Nation. The Bears Ears region is
18 important to our Diné culture and traditions that stem
19 from creation of stories since time immemorial. These
20 places, the rocks, the wind, the land, they are living,
21 breathing things that deserve timely and lasting
22 protection.

23 Our great leader, Manuelito, was born there.
24 My own family lived there. The Bears Ears is a place of
25 safety and fortitude. It is a place where many Navajo

1 people, including some of my direct ancestors, hid from
2 and survived persecution by the U.S. cavalry during the
3 Long Walk Period.

4 It brings me great pleasure to know, to say
5 that now I stand here as President of the Navajo Nation
6 and we have worked with the U.S. President, our
7 neighboring tribal nations, and many local individuals who
8 want to see this land protected and saved. It brings me
9 great pleasure -- Navajo Nation is greatly pleased to see
10 that the Bears Ears has become a federally protected
11 national monument. We are happy that we now have this
12 land protected for all future generations, regardless of
13 if they were Navajo, Ute, European-American, American,
14 African-American, or any other group as long as they are
15 Americans and live on this land.

16 These were some of the concerns that I
17 expressed. My first concern was the land status of the
18 traditional Navajo land was to protect and preserve sacred
19 places for future generations of Navajo people. My second
20 concern was to ensure Navajo people have access to our
21 sacred land to gather ceremonial herbs as well as our --
22 as for some central foods such as piñons and other -- and
23 other food products. My third concern was to ensure any
24 new designation creates a new paradigm for tribal nation
25 collaborative management to the fullest extent possible

1 under the law.

2 Happy to say that this national monument
3 designation addresses each of these three concerns. The
4 land will be protected for generations to come, our Navajo
5 people will have access to the land for traditional
6 purposes, and our Native nations have helped set a new
7 standard for collaborative management at a national
8 monument. We look forward to the day when all future
9 national monuments on Native lands are collaboratively
10 managed with tribes who have historical and current
11 connection to the land.

12 And I want to acknowledge the Bears Ears
13 Inter-Tribal Coalition for their work. Without this
14 unprecedented coalition of five tribes, who came together
15 to lead this effort, we would not be -- we would not have
16 the designation today. Also want to acknowledge our
17 Navajo Utah Diné Bikéyah, a group of local leaders on the
18 ground in Utah who worked hard to push for conservation
19 and tribal inclusion. And I want to also acknowledge the
20 Utah congressional delegation. We had a few meetings with
21 the representatives who, like us, saw the need to protect
22 and conserve Bears Ears.

23 And I just want to say that my personal
24 interests began after numerous public hearings were held
25 in Utah. One was at Monticello, where our people

1 expressed that they believe that it was set aside for
2 tribal leaders or tribal -- Navajo Nation people and other
3 members of different tribes in the area. In that meeting,
4 a lot of prejudices were expressed, discrimination,
5 discriminatory remarks were made towards my people, the
6 Navajo, meaning that they were told if they want to gather
7 firewood, go hunting, they need to -- they have their own
8 land on which to do so and not Bears Ears. And so with
9 those remarks being made, I knew that we needed to stand
10 together as tribes and be able to defend this land that
11 historically has been used by my people, by my family, and
12 also the need to preserve the whole area.

13 I did -- I had a conversation with the
14 governor of Utah, with congressional leaders about
15 co-managing the area that was designated, and I told them,
16 I said I am willing to support the PLI, public land
17 initiative, sponsored by Utah and their congressional
18 leaders, state leaders, as long as we were talking about
19 co-managing the area.

20 And when that did not come forward, in fact
21 an advisory council has been set up with ten people with
22 the PLI initiative that provided ten representatives, only
23 one position being Native American. On the designation
24 side, five commissioners, all members of the five tribes
25 that have significant ties to the region, were selected.

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1 We have one representative and an alternate position that
2 now serve as commissioners on the current designation of
3 Bears Ears. And so we feel that we have now direct
4 cooperation with the United States government in
5 co-managing the Bears Ears area.

6 The amount of land designated by the PLI was
7 as a conservation -- as a conservatory area was
8 1.2 million. The Presidential designation is at
9 1.3 million; 100,000 acres separate the two. And so in
10 talking with our congressional leaders on the Utah side, I
11 said you were willing to do 1.2 million with ten advisors,
12 only one Native American. This side is 1.3 million with
13 five commissioners, all of whom are Native Americans.

14 It's unprecedented to have that kind of an
15 arrangement over a monument that's been designated.
16 That's why we fully support and stand with the
17 designation, because it's for the first time bringing
18 Native Americans to the table to make sure that all
19 cultural artifacts, sacred sites are protected and that we
20 will take steps necessary to make sure that those -- that
21 those sites are protected and preserved for future
22 generations. We have now that opportunity, we now have
23 that authority to do so.

24 So with that, we, Navajo Nation, with the
25 Navajo Nation Council, stand in support of the

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1 designation. And any designation moving forward should
2 also consider such an arrangement, especially if it
3 impacts Native American historic land areas. When it is
4 designated as such, should be where -- it should be --
5 should provide an opportunity for local Native American
6 tribes to serve as commissioners, co-managing the area
7 with the federal government.

8 Thank you.

9 MR. JANSSEN: Thank you.

10 MR. MALDONADO: Hello. Chairman Maldonado,
11 Kaibab Band of Paiute Indians.

12 I had written a letter to Secretary Zinke
13 expressing my concerns regarding his most recent visit to
14 Grand Staircase-Escalante National Monument, Bears Ears
15 National Monument, and their lack of consultation with
16 tribal entities. The following concerns directly address
17 the issues of consultation in accordance with executive
18 orders.

19 Executive Order 13175 recognizing Tribal
20 sovereignty and meaningful consultation did not happen.
21 So Executive Order 13007, sacred sites, didn't happen.
22 Executive Order 12898, environmental justice for low
23 income and minority communities, didn't happen. Executive
24 Order 12875, federal government to pay for implementation
25 of federal regulations, that's ongoing. Executive

1 Order 11593, federal entities are to be leaders in the
2 preservation, restoring, and maintaining of federally
3 owned historical, archaeological, and anthropological
4 sites. And then last, Executive Memorandum 4-29-94,
5 ensure that all federal entities recognize and work with
6 tribal entities in a government-to-government relationship
7 and that federal entities work in unison and cooperatively
8 with tribes. His visit to the area didn't include any of
9 those things.

10 The fact that you want to open the lands to
11 mining, gas exploration, whatever else, that's why the --
12 you know, the environmental justice, that's where that
13 comes into play. As the President brought out, working
14 with Grand Staircase-Escalante, the Kaibab Band of Paiute
15 Indians have been working cooperatively in a management --
16 cooperative management situation since '94, '96, somewhere
17 in there. We were one of the original cooperators trying
18 to establish the Grand Staircase-Escalante. We worked
19 cooperatively with the Grand Canyon-Parashants in the
20 management and use of those things.

21 As the President brought out, not only
22 plants, medicines, minerals, you know, all these things
23 that we have to collect, we have ongoing uranium on the
24 north side. Uranium mining contaminates a lot of things.
25 It is not contained within their boundaries. Because of

1 the prevailing winds during the different parts of the
2 year, they blow in different directions. It contaminates
3 everything, affects the water table. You know, these are
4 the kinds of things that we need to take into effect.
5 Animals don't understand our artificial barriers.

6 And Department of Energy, national nuclear
7 security site, says that the meat is okay, but it's just
8 in the bones and the marrow that they have a problem with.
9 We use all of that so it is a problem. Every piece of it
10 we make use of. Those are things -- excuse me. I'm new
11 to this whole government thing. Sometimes my emotions get
12 away.

13 But as the President brought out, these
14 things are not about us or our family. We have a long
15 history in this area. This is all of our traditional land
16 mass. As Paiutes, we predate the Hopis in this area.
17 They came through our area. That's how far back as
18 Paiutes we go in this area. We have a long history. We
19 were put here from the very beginning. We've always been
20 here. None of our stories tell of us moving other people
21 out. All of our surrounding tribes, they do not have
22 stories of us displacing them in order to gain land, land
23 base. We've always been here.

24 The fact that you are continuing, Department
25 of the Interior, United States government, the President,

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1 POTUS himself, in doing these things without talking to
2 us, in violation of your trust responsibilities, in
3 violation of all these executive orders and more -- those
4 are just a few main important ones. We can continue to go
5 through the list of them, from waters of the United States
6 to, you know, every single one of your departments has
7 different statutes and secretarial letters, memorandum in
8 your -- in their individual handbooks that deal with
9 consultation, that deal with how you are supposed to talk
10 to us, how you are supposed to treat us, how you are
11 supposed to respect us. The Constitution of the United
12 States says that treaties are the highest law of the land.
13 How can you ignore these things when they are spelled out
14 so plainly, so bluntly for you to look at and to
15 understand?

16 As always, we don't want to be
17 confrontational because it doesn't do any good, because
18 then we put up walls in between us. What we want is for
19 you to understand and to take a personal responsibility
20 for all of these things because it affects you. As the
21 President brought out, it doesn't make any difference to
22 us what color you are because in reality there's only one
23 race, that's the human race. We are all a part of this
24 creation.

25 The water affects all of us. What you do up

1 here in our land is going to go to the Colorado River.
2 How are Vegas, Phoenix, Tucson, California going to exist
3 if all of this is ruined? Those are the things that you
4 need to understand. That's what you are affecting when
5 you're doing these things.

6 Secretary Zinke said that he would work
7 tirelessly to ensure our public lands are managed and
8 preserved in a way that benefits everyone for generations
9 to come. We want to know is this still true? Does this
10 still hold water? Is this the way he feels? Is he going
11 to live up to his words? Does the President understand
12 what he is asking, what he is trying to do?

13 The gravity of it all, how can you put money
14 or any type of a value on these things when you are
15 dealing with millions upon millions upon millions of
16 people's lives? The 5, 6 million people in Phoenix,
17 11 million in Los Angeles. How many more million in
18 Vegas? And those are just the big cities.

19 We're from a rural community. We understand
20 the value of what community really means. It's not just
21 us. It's all of our neighbors. It's all the towns around
22 us. We can't have economic development without including
23 everybody. We can't have economic security without
24 including everybody, to -- again, how can you put a
25 monetary value on these things? That's what we want you

1 to think of.

2 And look at all of your executive orders.
3 Those are your laws that you need to abide by. Look at
4 the Constitution. That is supposed to be the highest
5 legal instrument that the United States revolves around.
6 Pay attention to it, look at it, refer to it, and then
7 come back and speak to us in a way that is meaningful
8 consultation.

9 In the letter that I had drafted to the
10 Secretary, I asked him specifically to come and speak to
11 us on a government-to-government basis, respecting that
12 trust responsibility and his obligation as a federal
13 representative, speaking for the government. That is his
14 responsibility. He needs to respond to that. You can't
15 do that because you don't have that authority. You're
16 just here taking comments.

17 But those are the things that we need to get
18 across to you so you can take it back to him. We want you
19 to understand this and take responsibility, personal
20 responsibility for it, because then you can speak with
21 emphasis and passion to let him know how this affects you
22 and your families. If you live here in Phoenix, your
23 families, your children, your grandchildren, that's the
24 way we look at it. Seven generations out, what are we
25 leaving them? That's what we need to think about.

1 That's why this is so important to us.
2 That's why we struggle with all these things. That's why
3 in Kaibab we work with the federal entities around us,
4 BLM, National Forest Service, National Park Service, all
5 of those entities that are around, even Department of
6 Interior, Department of Defense, we have that relationship
7 with all of those federal entities because we stress that
8 government to government. We stress those executive
9 orders so they understand how we want to be treated with
10 respect.

11 That's what this is all about, to be
12 approached and spoken to before the decisions are made,
13 not to come and have you dictate to us and then check off
14 the little box that says consultation. That's not the way
15 it works. You speak to us from the beginning, before you
16 make the decisions, and let us have input to help you make
17 the decisions. That's consultation.

18 Thank you.

19 MR. JANSSEN: Thank you.

20 MR. BURSON: Good afternoon. My name is
21 James Burson, B-u-r-s-o-n. I'm with the Pueblo of Laguna,
22 in-house attorney.

23 I'm here to read to you the comments that we
24 submitted to the Secretary of Interior for the Bears Ears
25 National Monument review. These are from our governor of

1 the Pueblo of Laguna, Virgil Siow, as follows: Pueblo of
2 Laguna supports President Obama's designation of Bears
3 Ears National Monument and strongly opposes review of the
4 designation as irresponsible and illegitimate for three
5 reasons:

6 Designation was lawful and correct on the
7 facts in the first place. Neither the President nor the
8 Secretary have a legal basis to make any modifications to
9 the present designation, and the factual basis for this
10 review has been contrived. The Secretary should either
11 withdraw the review or justly conclude that the
12 designation was appropriate.

13 The Secretary has not implemented
14 President's Executive Order 13972 consistent with
15 applicable law. The order retroactively imposes
16 constraints on prior national monument designations not
17 authorized by the Antiquities Act of 1906 or any other
18 federal law. The order sets forth a policy for future
19 designations or expansions of national monuments under the
20 Antiquities Act. The order aspires that the
21 designations -- the future designations should
22 appropriately balance protection of landmarks, structures,
23 and objects against appropriate use of federal lands and
24 the effects on surrounding lands and communities.

25 Arguably, the current President has

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1 authority to set policy for how he will treat future
2 national monument designations; however, the President
3 lacks authority to second-guess and modify past
4 designations. Absent any authority, his order directs
5 that the Secretary should conduct a review of national
6 monuments designated after 1995 where the Secretary
7 determines that the designation was made without adequate
8 public outreach and coordination with relevant
9 stakeholders. The Antiquities Act compels no such
10 criterion on national monument designations made by
11 previous presidents, and the current President lacks
12 authority to require the consideration of superimposed
13 standards on previously designated national monuments.

14 The Antiquities Act does not authorize the
15 President to abolish national monuments after they have
16 been established. Moreover, the Federal Land Policy and
17 Management Act of 1976 restricts the President's and the
18 Secretary's authority over federal lands in this regard by
19 directing that the Secretary shall not modify or revoke
20 any withdrawal creating national monuments under the
21 Antiquities Act. Accordingly, the Secretary's review
22 cannot, consistent with applicable law, proceed as
23 directed by the order, or as interpreted by the docket
24 DOI-2017-002, and should be withdrawn.

25 Notwithstanding the illegitimacy of the

1 current review, Bears Ears National Monument designation
2 received an enormous amount of careful consideration,
3 including years of listening to stakeholders. Dozens of
4 community meetings and public discussions were held
5 throughout 2016, including a well attended public meeting
6 with then-Secretary of the Interior Sally Jewell in Bluff,
7 Utah. The final monument designation boundaries are very
8 close to what was proposed in the Utah delegation's public
9 lands initiative and much smaller than the tribally led
10 proposal.

11 The record of public outreach in
12 coordination with relevant stakeholders amply supports
13 Bears Ears National Monument were it left to this
14 Administration to designate. Bears Ears is a sacred
15 landscape with more than 100,000 Native American cultural
16 sites, dozens of which were looted and desecrated between
17 2014 and 2015 alone.

18 The proposal to establish it was developed
19 by a coalition of five sovereign tribal governments, Hopi,
20 Navajo, Ute Mountain, Ute, and Zuni. Perhaps it is
21 because of this unique circumstance that Bears Ears has
22 been singled out for fast-track illegal reconsideration
23 under this Administration; however, that alone was not the
24 sole impetus for the designation.

25 Bears Ears is also home to scientific

1 wonders, irreplaceable wildlife and biodiversity, and
2 recreational opportunities that form a vital base to the
3 local economy. That is why Utah citizens, Americans
4 across the country, and many other Indian tribes, like the
5 Pueblo of Laguna, have all agreed it should be protected
6 for future generations.

7 Most Americans support the protection of
8 public lands. According to a 2016 study from Harvard's
9 Kennedy School of Government, more than 93 percent of the
10 respondents said that historical sites, public lands, and
11 national parks should be protected for current and future
12 generations.

13 Reducing the size of Bears Ears will
14 primarily benefit the profiteering extractive industries
15 to the detriment of the important qualities intended for
16 protection by the designation. Any change in the monument
17 will benefit abusers who act as though federal public land
18 is their private domain and those who neither respect nor
19 appreciate Bears Ears' irreplaceable aspects. Any
20 reduction in protection will cause irreparable harm and
21 not adhere to the will of the majority, but benefit only
22 an insignificant minority. The Pueblo of Laguna joins
23 with the majority of Americans in western states that
24 support the protection that national monument status
25 affords to Bears Ears.

1 While the Pueblo of Laguna is not opposed to
2 sensible energy development, we believe Bears Ears
3 National Monument has greater value as protected wildlife,
4 cultural, recreational, and historical resources than any
5 temporary economic gain from mineral resource extraction.
6 Rather than sacrificing this incomparable place for the
7 removal of low quality energy and mineral resources, which
8 exist in abundance elsewhere, the national park quality
9 landscape deserves permanent protection. Thus, the
10 unauthorized review should be withdrawn or, at a minimum,
11 should recommend national park designation by congress.

12 Respectfully, Virgil Siow, Governor, Pueblo
13 of Laguna.

14 Thank you.

15 MR. JANSSEN: Thank you.

16 MR. FROST: Good afternoon. My name is
17 Kevin R. Frost, F-r-o-s-t, Southern Ute Indian Tribe of
18 Colorado councilmember.

19 Today I'm going to be speaking again, as
20 well as with everyone here, on the issue of barriers. The
21 Southern Ute Tribal Council are evoking the divine
22 blessing of the Creator upon our efforts and purposes in
23 order to preserve for ourselves and our descendants the
24 inherent sovereign rights of our Indian Nation, rights
25 reserved and secured under Indian treaties and agreements

1 with the United States, and all other rights and benefits
2 to which we are entitled under the laws and
3 constitution -- law and Constitution of the United States
4 to enlighten the public toward a better understanding of
5 the Southern Ute people to preserve Southern Ute cultural
6 values and otherwise promote health, safety, and welfare
7 of our Southern Ute people. We submit the following:

8 The Southern Ute Indian Tribe supports
9 keeping Bears Ears a national monument. The Southern Ute
10 supported designating Bears Ears as a national monument
11 because of the three Ute Tribes' historic and current ties
12 to the land, animals, plants, and resources of San Juan
13 County, Utah. The other two Tribes are the Ute Mountain
14 Ute Tribe and the Ute Indian Tribe.

15 For more than 12,000 years, Bears Ears was
16 the ancestral home to many tribes, including the Utes,
17 Hopi, Acoma, Zia, Jemez Pueblo, and the White Mountain and
18 Jicarilla Apache Tribes, and they continue to assert their
19 enduring use of these lands. Evidence of many Ute teepee
20 rings exist in the area. The Southern Ute connections to
21 the land support Native life and culture in important
22 life-sustaining ways, including subsistence hunting,
23 fishing, and gathering of nature's materials for
24 medicinal, spiritual, and other uses, preservation of
25 Tribal sacred places and as sources of economic

1 development.

2 The Presidential proclamation establishing
3 the national monument acknowledges the strong affiliations
4 that various tribes have to this area. Bears Ears is
5 unsurpassed for its integrity and abundance of
6 archaeological resources. Ute oral histories describe the
7 historic presence of bison, antelope, and abundant bighorn
8 sheep which are depicted in the ancient rock art.

9 Bears Ears has been under threat of cultural
10 vandalism, looting of cultural sites, and indiscriminate
11 off-road vehicle use that damages these sacred sites. To
12 prevent this rapid destruction of lands in southeastern
13 Utah, its importance to Native peoples, formal protection
14 as a national monument is required. Formal protection
15 will provide important consistency and quality to
16 management of these lands and define principles of
17 management that will positively affect Native values on
18 these lands. Designation as a national monument provides
19 the best formal legal protection to manage these lands and
20 to implement management principles in cooperation with
21 tribes that share ancestral and ongoing ties to the
22 region.

23 An important factor here as well is that no
24 monument designation has ever been rescinded by a
25 president, and there is no reason to start now; therefore,

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1 the Southern Ute Indian Tribe extends its support for the
2 Bears Ears National Monument designation by
3 President Obama that reflects the will and the values of
4 Native peoples whose identities, histories, cultures, and
5 futures are inextricably tied to these lands.

6 Thank you.

7 MR. JANSSEN: Thank you.

8 And if you have any written submissions, you
9 can submit them to us and they will become part of the
10 record as well, just for your information.

11 MR. MALDONADO: Can I amend my comment also,
12 or add to it, however you want to put it?

13 MR. JANSSEN: Absolutely.

14 MR. MALDONADO: Chairman Maldonado again.
15 First name is Roland, R-o-l-a-n-d, last name Maldonado,
16 M-a-l-d, as in David, o-n-a-d-o, Kaibab Band of Paiute
17 Indians.

18 In listening to this, a lot of them are
19 talking about Bears Ears specifically or Grand
20 Staircase-Escalante. And in the review, understanding is
21 returning control back to or -- control back to local
22 entities, something that needs to be brought out, Utah's
23 charter, when they gained statehood, was that they
24 relinquish any claim to federal lands in perpetuity. They
25 have no right to those lands at all whatsoever. Their

1 congressional members that brought out the Secretary, it's
2 illegal. They have no right to those lands. That's part
3 of their charter, their state charter. They gave up those
4 rights permanently.

5 The fact that they would suggest in the
6 media that we are pawns of environmentalists and other
7 specific or specialty groups is an insult to tribal
8 sovereignty. As I brought out, working with Grand
9 Staircase-Escalante before there were any of those issues,
10 that's the reason that we went to fight for a national
11 monument. That goes back to '96, '94. We're still
12 working with these entities.

13 But I just wanted to bring out Utah has no
14 right to those lands. Even if you rescind the national
15 monument, they still have no right to those lands. They
16 can't go in there and mine and do whatever they want to
17 do. They still have no right to those lands; in
18 perpetuity they gave up any and all claims to those lands.

19 Thank you.

20 MR. JANSSEN: Thank you.

21 Is there anyone else who would like to
22 provide any public comments regarding Executive
23 Order 13792, Review of Designations Under the Antiquities
24 Act?

25 MR. LOMAYESVA: I'll say something. Hi. My

1 name is Fred Lomayesva, and I wanted to make a couple
2 comments regarding Bears Ears.

3 I think that Chairman Honanie and Vice
4 Chairman Lomahquahu would probably agree with me that they
5 supported the designation of Bears Ears and they support
6 the continued designation, that it has dedicated historic
7 and prehistoric sites there. But aside from that, the
8 Hopi also believe that they have a unique or a special
9 relationship with the area as part of our ancestral areas
10 that we migrated through and that evidence of those
11 migrations continue to exist there today.

12 I think that we join with other tribes in
13 supporting the designation. We believe it has all the
14 factors that would merit it being a national monument, and
15 we believe that it still merits that designation. We
16 would oppose a revision of that designation, and we
17 support its continued designation as a national monument
18 today.

19 So thank you.

20 MR. JANSSEN: And what tribe are you with?

21 MR. LOMAYESVA: Hopi.

22 MR. JANSSEN: Thank you.

23 MR. BEGAYE: Again, Navajo Nation President
24 Russell Begaye.

25 I'd like to say that our team met with

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1 Secretary Zinke in Salt Lake when he came to visit and to
2 specifically discuss Bears Ears, our concerns that he had
3 heard that the supporters of Bears Ears were all from
4 outside the region, that they were non-Indians that were
5 pushing this designation, and we wanted to make sure that
6 we set history straight that it's not outsiders that
7 pushed this.

8 For 80 years -- I've stated earlier for
9 80 years the Tribal leaders, working, talking with
10 president after president, congressional leaders after
11 congressional leaders, finally that designation came, and
12 this is why our people are so passionate about keeping the
13 designation as is. And that was with our vice president,
14 Jonathan Nez, our attorney general, and others met with
15 the Secretary.

16 And then last week once again meeting with
17 the -- with Deputy Secretary Cason I heard again with a
18 delegation from Navajo Nation, again reiterating our
19 position, strong position, to keep the designation. And
20 we also would like to again make a request that a meeting
21 again be held with Secretary Zinke to make sure any
22 statements are being made out there that are untrue be set
23 straight, and let these statements come directly from our
24 tribal leaders. And we would be willing to go to
25 Washington, D.C., or anywhere in the country to meet with

1 the Secretary to express once again that it is -- that
2 this designation and that this effort is being driven by
3 tribal leaders but not -- and not by outside interests or
4 by non-tribal leaders, but this is -- this goes to the
5 heart of who we are as Indian Nation.

6 So we appreciate also the multiple public
7 hearings that were held before the designation came about.
8 And so, again, we just make that request that the
9 Secretary opens his door for us to meet with him as tribal
10 leaders once again.

11 Thank you.

12 MR. JANSSEN: Thank you.

13 So there's going to be one additional
14 listening session for this executive order, but it will
15 occur on Monday, June 12th, at 3:00 p.m. to 5:00 p.m. at
16 Mohegan Sun in Connecticut. That will be in conjunction
17 with NCAI's mid-year conference. So there will be one
18 additional listening session on this issue.

19 If there are -- oh.

20 MR. WHITE: Hi. Again, respectfully,
21 welcome everybody in the room, and thank you guys for
22 giving us the opportunity to speak with regards to
23 concerns that I have and my people from the Fort Yuma
24 Quechan Indian Tribe have with regards to this executive
25 order.

1 My name is Willie White. I'm a councilman.
2 I haven't been at this for very long as far as trying to,
3 you know, be in place in leadership with my community.
4 And, you know, I have to ask how long have -- as
5 individuals have you guys been in your capacities as far
6 as the Department and things like that?

7 MR. JANSSEN: I've been with the Department
8 for the last two years, but have worked in Indian Country
9 for my entire career.

10 MR. WHITE: Okay.

11 MS. ORTIZ: I've been with the Bureau of
12 Indian Affairs since 2012 and also have worked in Indian
13 Country for over 20 years. Prior to that I worked in the
14 Indian Health Service and worked directly with law firms
15 and tribes.

16 MR. MAHONEY: And I've been with the Bureau
17 of Land Management 36 years and have been in the current
18 position as program leader for monuments, conservation
19 areas, wilderness and wild and scenic rivers for about
20 15 years.

21 MR. WHITE: Got it. I ask because, you
22 know, it has to bring you guys as much, you know, pain and
23 concern to learn of, you know, these types of attempts or
24 actions with regards to, you know, some of the battles
25 that have been, you know, going on for as long as, you

1 know, all of us have been -- myself alive and you guys
2 have been, you know, dedicated in your capacities and your
3 positions.

4 And, you know, I just -- it just makes me
5 concerned, you know, whether -- for the well-being and the
6 future of, you know, all these protected lands that, you
7 know, many of us hold very, you know, dear and close for
8 reasons that need not even be entered into this -- you
9 know, this testimony. But, you know, what does it
10 indicate for the future of, you know, our ability to
11 protect, you know, what is sacred? And, you know, I think
12 that's part of the intention of, you know, this directive,
13 is to, you know, fend off future efforts.

14 You know, I also find it very concerning and
15 saddening in the fact that, you know, this is a topic that
16 we are discussing at the same time as we are learning of
17 the news of, you know, the climate -- Paris climate
18 agreements and things like that. It just seems like it's
19 just very sad, and I'd like to put that on the testimony,
20 you know, that it's just -- we can't give up.

21 Thank you.

22 MR. JANSSEN: Thank you.

23 So as I mentioned -- oh.

24 UNIDENTIFIED SPEAKER: I apologize for
25 getting here late. I am guessing that you are taking some

1 testimony with respect to --

2 MR. JANSSEN: We're receiving public -- or
3 comments from tribal leaders on Executive Order 13792.
4 This is a listening session on the Interior's review of
5 national monuments under the Antiquities Act.

6 UNIDENTIFIED SPEAKER: Tribal leaders only?

7 UNIDENTIFIED SPEAKER: No.

8 MR. JANSSEN: Yeah, you can come up and make
9 a comment if you would like.

10 UNIDENTIFIED SPEAKER: Citizen, that's all I
11 am.

12 MR. JANSSEN: Okay. One moment. Let me
13 check.

14 So I guess I'll leave this choice up to the
15 tribal leaders in the room if you would like to open this
16 up for other individuals. But if not, you know, this can
17 remain just tribal leaders, I guess.

18 So this is actually a listening session for
19 tribal leaders. There is an opportunity for the public to
20 submit comments, and we are receiving written comments
21 until July 10th, 2017, on this executive order. This
22 listening session is part of the government-to-government
23 relationship with tribes, and so we, you know,
24 respectfully keep this to just tribal leaders.

25 So as I mentioned before, there's going to

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1 be one additional listening session on this executive
2 order on June 12th, at the NCAI mid-year convention at
3 Mohegan Sun in Connecticut.

4 I'd like to thank everyone today. If there
5 are no more tribal leaders who would like to submit
6 comments, I would like to thank everyone today for their
7 participation in this listening session.

8 This is part of a continuing dialogue
9 between tribes and the federal government, and so, you
10 know, this is a consultation that's on the record. Any
11 statements or documents that were provided are going to
12 become part of the official record and will be reviewed by
13 the Department before any report or recommendation is made
14 to the President.

15 So with that, I will call this listening
16 session to a close. Thank you very much.

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11 day of June, 2017.

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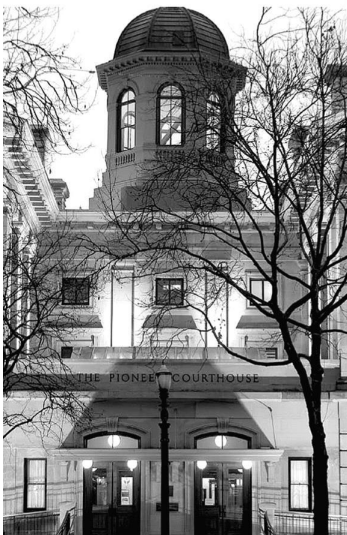
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TRIBAL LISTENING SESSION

THURSDAY, MAY 25, 2017

3:15 P.M.

DOUBLE TREE HOTEL

1000 NORTHEAST MULTNOMAH BOULEVARD

PORTLAND, OREGON 97232

1 **TRIBAL LISTENING SESSION**
2 **REVIEW OF DESIGNATIONS UNDER THE ANTIQUITIES ACT**
3 **MAY 25, 2017**
4 **3:15 P.M.**

5
6 **MR. RODMAN:** We're going to go ahead and
7 get started with the second listening session. This
8 listening session is regarding Executive Order
9 13792, which was issued on April 26, 2017. And the
10 title is Review of Designations under the
11 Antiquities Act.

12 I'm Morgan Rodman. I'm with the Office of
13 the Assistant Secretary for Indian Affairs in Osage.
14 And we have some colleagues on the panel as well,
15 but before we get too far, I would like to ask
16 Councilperson Valerie Switzler from Warm Springs,
17 would you mind providing an opening for us, please

18 **MS. SWITZLER:** (Speaking Native
19 American.)
20 Thank you Heavenly Father for bringing us here
21 today. I ask that you pour down your blessing upon
22 each and everyone. When we put you first, Lord, we
23 will not get lost. For you, Lord, I offer this one
24 song.

25 **(Singing.)**

1 Thank you, Lord, in your name we pray, Amen.

2 **MR. RODMAN:** Thank you so much,
3 Councilperson.

4 Why don't we go ahead and start with the
5 introductions.

6 **MS. FORTMANN:** Hi, I'm Tracy Fortmann,
7 representing the National Parks Service. And I'm
8 the Superintendent, Fort Vancouver National Historic
9 Site. I have the privilege and honor of working
10 government-to-government with 26 federally-
11 recognized tribes tied to my site, and I think this
12 is a wonderful opportunity to hear from you in this
13 listening session.

14 **MS. BLANCHARD:** Good afternoon, I'm Becky
15 Blanchard here representing the U.S. Forest Service.
16 My job is the wilderness, wild and scenic rivers and
17 congressionally-designated program -- areas Program
18 Manager for Region 6, which is Oregon and
19 Washington. I'm honored to be here with you and to
20 hear you and to carry back to the agency your input.

21 **MS. WEIL:** My name is Jody Weil. I'm the
22 Acting State Director for the Bureau of Land
23 Management, and I'm looking forward to hearing your
24 comments and concerns about all the monuments that
25 we manage across the country.

1 **MR. LOUDERMILK:** Good afternoon,
2 everybody. Some of you were in our earlier session.
3 My name is Bruce Loudermilk. I'm the Director for
4 the Bureau of Indian Affairs. I'm an enrolled
5 member of the Fort Peck Sioux Tribe, Northeastern
6 Montana.

7 **MR. AIKIN:** (Speaks Native American) My
8 name is Scott Aikin. I'm the National Native
9 American Programs Coordinator of the U.S. Fish and
10 Wildlife Service, and here to answer questions
11 regarding the alliance we have with the services
12 jurisdiction.

13 **MR. RODMAN:** Thank you, Scott.

14 So, again, this is the listening session
15 for Executive Order 13792, Review Designations under
16 the Antiquities Act. And for those that were in the
17 preceding listening session, I'm going to go into
18 kind of the logistics of how the listening session
19 will work so it may be a repeat for you, but I'll be
20 quick.

21 So we do have the Executive Order to
22 discuss today. You should have a copy of that with
23 your packet and also a handout to go with that. If
24 you don't, please let us know and we'll get that to
25 you. Regina will help with that. And we're all

1 senior-level career employees on the panel today,
2 and many of us have worked along side you for many
3 years, and we're here to listen to you and work
4 with you on your comments, your recommendations or
5 your concerns that you may have about the Executive
6 Order. For the implementation, we need your
7 guidance, your leadership and your wisdom.

8 The Executive Order, again, is 13792.
9 Today's listening session is designed primarily for
10 tribal leader input and for comments as part of the
11 nation-to-nation relationship between tribes and the
12 federal government. We're here primarily to listen
13 to your views and make sure they're considered as
14 part of the record for the Administration as it
15 moves forward. Today is not the only listening
16 session. There will be a total of four on the
17 National Monument listening sessions, and those are
18 in the packet as well.

19 Today's listening session will be recorded
20 and transcribed, and the transcriptions will be made
21 available at www.bia.gov. The transcripts and all
22 written comments that are submitted will be analyzed
23 and recommendations will be made to the Assistant
24 Secretary for Indian Affairs and to the Secretary of
25 the Interior. And the Secretary will then make

1 reports and recommendations to the White House.

2 So for the Executive Order for today's
3 listening session, it's titled Comprehensive Plan --
4 excuse me, I have the wrong one here -- Review
5 Designations under the Antiquities Act. And this

6 Executive Order was issued by President Trump
7 on April 26, 2017. And it requires that the
8 Secretary of the Interior review national monuments
9 that have been designated or expanded since January
10 1, 1996, where the designation covers more than
11 100,000 acres or where the Secretary determines that
12 the designation or expansion was made without an
13 adequate public outreach and coordination with
14 relevant stakeholders. 27 monuments have been
15 identified by DOI for review and they are listed in
16 the handouts provided. Three of those monuments are
17 in the Northwest area: The Cascade Siskiyou
18 National Monument in Oregon, the Hanford Reach
19 National Monument in Washington, and Craters of the
20 Moon National Monument in Idaho.

21 The Secretary must use several factors in
22 evaluating the national monuments to determine
23 whether each designation or expansion conforms to
24 the policy of the Executive Order. And the policy
25 is described in Section 1 of the Executive Order.

1 And the factors that the Secretary is to use are
2 also in there -- in the Executive Order and the
3 Federal Register notice.

4 There's some key deadlines that I'd like
5 to underscore. The Secretary must make
6 recommendations to the President on any Presidential
7 actions, legislative proposals or other appropriate
8 actions necessary to carry out the policy of the
9 Executive Order. The Secretary's interim report to
10 the President is due by June 10, and must make
11 recommendations on Bears Ears and other designations
12 the Secretary deems appropriate. The Secretary's
13 final report is due to the President by August 24,
14 2107, and that will summarize the findings of the
15 review and provide recommendations.

16 Written comments are also being accepted
17 for the national monument discussion. The deadline
18 for the Bears Ears comments is May 26 and for all
19 other monuments until July 10. Tribal leaders can
20 send their written comments to consultation@bia.gov
21 and tribal leaders and the general public can also
22 submit online at www.regulations.gov. And there's
23 some guidance, I think, in the handouts that have
24 been provided, too.

25 So some of the questions to help with the

1 conversation today, but not limited to these
2 question, are there any other monuments in addition
3 to the 27 being reviewed that should also be
4 reviewed because they were designated after January
5 1, 1996, without adequate public outreach and
6 coordination with the relevant stakeholders? And
7 what are your comments or views on the application
8 of the seven factors listed in the Executive Order
9 that the Secretary is to use in reviewing the 27
10 monument designations? Are there other factors that
11 should be considered?

12 So we'll have -- we'll open it up now for
13 comments and Annette will help us with microphone in
14 the back as well, so, please. And please state your
15 name and tribal affiliation when providing comments,
16 please.

17 **MR. LOUDERMILK:** This going to be a short
18 meeting.

19 **MR. SALUSKIN:** I guess I'll start out.
20 Thank you again. My name is Delano Saluskin. I'm
21 the -- I'm the Vice-Chairman for the Yakama Nation.
22 And first of all, I have a question in my mind. Why
23 is the President trying to undesignate these
24 landmarks? To the Native people all of these -- all
25 lands are sacred to us and this is just a small step

1 in helping preserve the sacredness of the lands.
2 And I don't understand what his objective is. He
3 wants to turn it over to corporations again for
4 economic development. That doesn't make sense to
5 me. I mean, we've got -- we've got to preserve
6 something for our future generations yet unborn so
7 that they have and they can understand the
8 importance of these designations.

9 Again, it's my understanding that -- I
10 don't believe the President has the authority to
11 undesignate these -- these lands, these monuments.
12 I don't think the law affords him that opportunity.
13 He can -- you know, they can be designated, but I
14 truly question whether he has that authority to do
15 away with those designations. And it just seems as
16 though that if he's going to make any issues, it
17 should be for those lands that might be considered
18 for -- those designations into the future. These
19 should be grandfathered in. They should not -- he
20 should not be messing with these lands. So we want
21 to make sure that these designations are intact and
22 we just question whether -- you know, why is he
23 trying to do this. I mean, it just seems to me that,
24 you know, our government has -- you know, as I heard
25 the other day, has been hijacked by corporations and

1 this is just another step in that direction. So
2 those are my first general comments. I may have
3 others later. Thank you.

4 **MR. RODMAN:** One thing to maybe help
5 prompt some of the thoughts out there, in the
6 Federal Register notice, there are the seven factors
7 that Secretary is supposed to consider when making
8 the determinations about the national monuments.

9 The first is the requirements and original
10 objectives of the Act, including the Act's
11 requirement -- the Antiquities Act -- including the
12 Act's requirement that reservations of land not
13 exceed "The smallest area compatible with the proper
14 care and management of the objects to be protected."

15 The second consideration is whether
16 designated lands are appropriately classified under
17 the Act as, "Historic landmarks, historic and
18 prehistoric structures or other objects of historic
19 or scientific interest."

20 The third factor is the effects of the
21 designation on the available uses of designated
22 Federal lands, including consideration of the
23 multiple-use policy of Section 102.A7 of the Federal
24 Land Policy and Management Act, as well as the
25 effects on the available use of Federal lands beyond

1 the monument boundaries.

2 The fourth is the effects of a designation
3 on the use and enjoyment of non-Federal lands within
4 or beyond monument boundaries.

5 The fifth is concerns of state, tribal and
6 local governments affected by a designation,
7 including the economic development and fiscal
8 condition of affected states, tribes and localities.

9 The sixth is the availability of Federal
10 resources to properly manage designated areas, and
11 the seventh is such other factors as the Secretary
12 deems appropriate. So that's what will be used in
13 consideration.

14 **MS. SWITZLER:** Well, I concur with my
15 elder's view on, you know, why are we looking at
16 these lands. And I look at the one that's affected
17 in Oregon, the Cascade Siskiyou, and how -- you
18 know, how many acres that there is set aside to
19 protect these natural monuments, these lands where
20 our people had once dwelled for thousands and
21 thousands of years. And, you know, at one point
22 every place had a name and every -- every formation
23 had a story that was linked to it. And so, you
24 know, although the -- some of the stories have now
25 faded away with some of the elders that are gone,

1 but there are still plenty of places where our
2 people still consider these places sacred and that
3 they can -- that they venture to, that they go to,
4 that they travel to to get in touch not only with
5 their own -- their own being, but to get in touch
6 with their creator as well.

7 And so I'm -- you know, it worries me when
8 there's just a across-the-board "we're going to look
9 at all of these places." And it worries me when
10 there is -- there isn't consideration for what these
11 things mean to our people.

12 **MR. KUTZ:** Again, for the record, my name
13 is Steven Kutz, Tribal Council Member for the
14 Cowlitz Indian Tribe in Washington State. First,
15 before I add my comments regarding the monuments
16 themselves, I would like to answer some of the
17 questions about the factors of consideration.

18 Number one, I don't like the designation
19 or the wording in there "such other factors as the
20 Secretary deems appropriate." I think that is an
21 open-ended loop that you could walk anything through
22 under -- under anybody's circumstances. So I think
23 that that means, then, that anything is possible
24 when you have that language in there.

25 Secondly, whether designated lands are

1 appropriately classified under the Act as historic
2 landmarks, historic and pre -- historic structures
3 or other objects of historic or scientific interest.
4 Who makes that determination? Do we as a tribe have
5 the ability to -- to make that determination and not
6 be overruled?

7 So we look at the constant pressure, for
8 example, that's going on up and down the Columbia
9 River. Hanford Reach is up a little bit further up
10 the Columbia River, but look at what's going on in
11 the Gorge and the -- and there's -- there's a
12 designation there in the Gorge and people are trying
13 to overwhelm that and overcome that so they can
14 encroach on that and do things that they want to do
15 from a commercial nature. And all of that is
16 detrimental to the landscape, to all of our
17 important places and to the fish and wildlife that
18 use that that are so important to us. And so whose
19 opinion? So if we -- if federal government says we
20 don't see anything and we say we do, then are we
21 going to be overridden in that?

22 Secondly, I want to go to the first one;
23 smallest area compatible with the proper care and
24 management of the objects to be protected. Mount
25 St. Helens is in one of those categories. The whole

1 perimeter of Mount St. Helens is under constant,
2 constant pressure and we're fighting that constant
3 pressure. We have Canadian interest coming down
4 wanting to open up copper mines around the perimeter
5 just outside the boundaries of that because it's not
6 within the boundaries. So in my estimation, the
7 boundary was constructed too small and so -- and so
8 what happens when you do that? Look at Butte,
9 Montana, where you have the biggest Superfund site
10 in the nation probably. Although, I don't know how
11 they could consider that worse than Hanford, where
12 you have all of the waters coming out of that open
13 mine, copper pit going into the headwaters of the
14 Clark fork, coming down into the Columbia River
15 bringing all that contamination down through there.
16 And yet, here, the Canadians want to start another
17 one right -- further down along Mount St. Helens.

18 And so -- so this -- so the thing here
19 about the smallest area compatible with the proper
20 care and management of the objects to be protected,
21 who makes that determination? Is it going to happen
22 under such other factors as the Secretary deems
23 appropriate? Should a tribal government who wants
24 to pollute the waters, pollute the air and bring all
25 of these -- these industrial activities along areas

1 that are so important, should they be allowed to
2 overcome our wishes?

3 We had some conversations today -- up and
4 down the Columbia River here there's -- there's huge
5 pressure in five or six areas and the Mayor of
6 Portland this morning, if you were in the room and
7 heard his words, what did he call it? Colonial
8 exportation or exploitation or something like that.
9 That's what it is. So -- so the availability of
10 Federal resources to properly manage a designated
11 areas, some of these areas just need to be left
12 alone or minorly managed and not -- and not taken
13 advantage of.

14 So having -- having properties in the
15 inventory of the federal government, I don't think
16 turning them over to the state is -- is sometimes
17 appropriate because -- because they can undo some of
18 the stuff that's so important.

19 So looking down through that, those are
20 just some of the comments that I have around the
21 rules because if they're allowed to go through the
22 way they're written, anything could happen.

23 The other -- the other concern that I have
24 now going back to the list is I look through that
25 list and I haven't been to all of those places, but

1 I've been to some of them. And when I -- when I go
2 to different tribes and I ask them where are your
3 important -- you know, you come there and you want
4 to go and you want to pray, and you want to go to --
5 to a place that has significance. And we, as the
6 Cowlitz Tribe, and all of the tribes here, we have
7 many of those areas that are out in the public
8 sector. They're not even -- they're not even under
9 government control. They're under -- they're under
10 the public sector control, and yet there are places
11 sacred to us. We have places that have been sacred
12 to us that have just been razed to the ground and
13 demolished historically because we've been ignored.

14 So as I -- as I look at this list, I think
15 that they ought to be left the way they are. I
16 think some of them are probably too small. I think
17 probably some of them are too small because the
18 pressure is up around the edges of those. And the
19 pressure isn't -- is to commercialize and utilize
20 all of that ground and a lot of these places are in
21 -- are in places that are irreplaceable. That's why
22 -- that's why they were placed on this list because
23 once they're gone or once they're damaged, you can
24 never repair them and we've had too much of that.

25 Lastly, I want to talk about Hanford Reach

1 because that's right there next to Hanford and we
2 all know that. And the President just removed how
3 many millions of dollars out of -- out of the
4 cleanup there where they just had these spills and
5 continued contamination. And they're -- they're
6 already years behind in the project of cleaning that
7 up. So he has a responsibility -- and the Hanford
8 Reach is one of the few areas in the upper river
9 where the fish can go and spawn and be taken care
10 of. And, I mean, I'll defer over here to my Vice-
11 Chairman, but that's one of the few places where
12 they can go and act in a natural state for a long
13 period of time along the river and not be affected
14 by all of the dams and the things that have gone on.
15 And so it's an important place for all of us. So to
16 some people it's just a place; to us it has effects
17 on the larger landscape and I think all of these
18 really do so thank you very much.

19 **MR. DOSSETT:** Well, I'll join in if nobody
20 else is ready to go yet. Hi, my name is John
21 Dossett. I'm with the National Congress of American
22 Indians. I guess I wanted to first say that the --
23 you know, the original purpose of the Antiquities
24 Act was to protect cultural resources for Native
25 people. That was a -- it was -- you know, when they

1 opened the southwest, it was Chaco Canyon and Mesa
2 Verde. Those were the areas that were under a great
3 deal of pressure. There was a lot of looting going
4 on and President Theodore Roosevelt and others in
5 the Administration at that time thought that -- that
6 that wasn't right. That they shouldn't just be
7 looting the antiquities and historic structures and
8 cultural resources of Native people in those areas.
9 So they came up with the Antiquities Act and gave
10 the President the authority to set aside these areas
11 and protect them out of the rest of the public
12 domain. And that was -- you know, that was the
13 original -- I mean, these days, I don't think many
14 people think about that, but that is the original
15 purpose of the statute was to protect cultural
16 resources of Native people. So I think it's
17 entirely appropriate that it's still continued to
18 used that way -- to be used that way.

19 I think today is the deadline for
20 submitting comments on Bears Ears. Is that right or
21 maybe it's tomorrow? But anyway, I thought I'd at
22 least say something about Bears Ears. NCAI has a
23 resolution very much in support of Bears Ears. We
24 are submitting comments. You'll be getting them.
25 And we'll also be submitting comments on the rest of

1 the review. But, you know, Bears Ears is an area
2 that's sacred to five of the tribes in those
3 regions. Those are five tribes -- I work at NCAI --
4 those tribes don't get along with each other very
5 well most of the time, but somehow those five tribes
6 have managed to get their act together and cooperate
7 entirely on protecting the Bears Ears area because
8 it's so important to all of them. And they've come
9 up with a management plan that is not only, you
10 know, to protect the area, but involves the tribes
11 co-managing the area with the federal government.
12 And that's a -- I think a really significant step
13 forward in the -- in the program for protecting
14 Native cultural resources is to involve the tribes
15 themselves in the process. And so it's a real step
16 forward and, you know, I hope you continue to
17 protect that.

18 In addition, I think one of the things
19 that's interesting about it, it's not just looking
20 at -- at, you know, artifacts and cultural
21 resources, but also the current use of the land for
22 ongoing cultural uses and ceremonies and activities
23 of the people in that area and protecting those
24 going forward, which is also a really important
25 purpose.

1 I wanted to -- you know, one of your
2 questions was about whether -- I guess moving away
3 from Bears Ears and moving towards the other things
4 in this area, like the Hanford Reach, like the
5 Siskiyou, one of the questions in this was whether
6 these fit the criteria in the Act. It seems to me
7 that all of these are historic landmarks. I mean,
8 that's pretty straightforward, right? The -- at
9 least what we've heard from other folks that tribes
10 have known these areas as historic landmarks for --
11 for millennia. So the very first criteria is it --
12 if it's a historic landmark, it fits the criteria of
13 the Act, and that's -- and that's a pretty easy one.

14 Lastly, I just, you know, wanted to
15 mention, you know, once again, the three in this
16 area, the Hanford Reach, the Cascade Siskiyou, and
17 the Craters of the Moon in Idaho, all of them -- you
18 know, we've started summaries of all of these areas
19 and the connection to the Native people and they all
20 have very strong histories. So those are -- I've
21 got some of that written down, I'll share that with
22 you, but I thought -- I mean, on behalf of NCAI,
23 we'd like to encourage maintaining those
24 designations into the future. Thanks very much.

25 **MR. KUTZ:** This is Steve Kutz with the

1 Cowlitz Tribe again. So we have high places, and we
2 have sacred places, and places where we go for
3 ceremonies, places where some of our families go,
4 not just the whole tribe sometimes. And we
5 shouldn't have to sit and put on a point -- pinpoint
6 a GPS point on a map and say that is the specific
7 place that we use for that purpose, because we don't
8 want to do that. We don't want people to know that
9 there's a place up in the mountains that's sacred to
10 us under the Weyerhaeuser family where there was --
11 where there was an ancient medicine wheel. And old
12 man Weyerhaeuser gave a promise and said he would
13 protect it. He didn't protect it, he bulldozed it
14 when he found out about it. He bulldozed it. And
15 so we don't -- we don't want to tell everybody why
16 and where and for some of these things are so
17 important to us.

18 The other thing that I want to note on
19 this document, it says initial list. It doesn't say
20 the list. It says initial list, which means there's
21 more to come. And so there are -- there are huge
22 areas that we have in this state, whether it's
23 national -- the national forest that you're
24 responsible for that could be harmed, there's the
25 berry fields that we have up in the mountains that

1 can be harmed. If there is any kind of restrictions
2 or opening up or things allowed to happen there by
3 the general public, they still -- they still go and
4 use those places with us but there's -- there's some
5 protected areas up there.

6 And there are some of things that are very
7 important to us around the National Park systems and
8 things like that are under constant pressure for --
9 from people who have come here lately and want to
10 now re-utilize and re-purpose some of these areas,
11 and diminish our access to those, and diminish the
12 importance of those to us. And so I'm worried about
13 that initial list and so I don't know where that
14 100,000 -- that 100,000 acre factor was put in. I
15 don't really know other than you start with the
16 bigger ones and work your way down, and maybe next
17 time it's 50,000. I don't really know.

18 So that's a concern that I have that is
19 that this -- this is just going to be a continued
20 assault on places that are important to us for
21 reasons that we shouldn't have to particularly
22 identify. Thank you.

23 **MR. GUNN:** Oh, hi. Brian Gunn from the
24 Powers Law Firm on behalf of the Colville Tribe.
25 Just some comments on the Antiquities Act generally,

1 not with respect to these designations, but to the
2 extent that any kind of recommendations are going to
3 make -- the Department may come up with -- may come
4 up with are going to make recommendations to
5 Congress or others about changes to the Antiquities
6 Act.

7 I would like to, you know, communicate one
8 issue that Colville has encountered in the past few
9 years. For a number of years, there have been
10 organizations and groups that have been interested
11 in designating wilderness and parts of the Colville
12 National Forest, which were directly adjacent to the
13 northern reservation boundary. And this is an area
14 that is currently Forest Service land but was
15 previously part of the undivided reservation. The
16 tribe has a number of sacred sites as the exclusive
17 regulator of hunting and fishing in those areas.
18 And the tribe has had concerns with some of those
19 proposed designations simply because the underlying
20 laws don't provide guarantees of existing uses and
21 access, like hunting and fishing, like law
22 enforcement for fish and game, and even access to
23 sacred sites. In some cases for motorized uses if
24 you've got elders and such that aren't able to
25 access those sites.

1 So more recently, a few years ago, there
2 was some discussion about designating instead of
3 wilderness one of these areas to be a national
4 monument and I think it's something that the tribe
5 would have been maybe more interested in if there
6 were safeguards in the Antiquities Act itself that
7 safeguarded those access, those preexisting uses,
8 especially access to sacred sites because I think
9 there was just generally concern that with as open
10 ended as the law is that if folks were to agree with
11 designation, that there may not be a guarantee that
12 they would be able to continue to access those sites
13 in the manner that they currently do. So for
14 whatever that's worth, and to the extent that the
15 Department is looking at recommendations to the
16 Antiquities Act generally. Thank you.

17 **MR. LOUDERMILK:** We have up until about
18 4:50, 5:00, and I'm not sure if we have more
19 comments from folks.

20 Did anybody have anything else they wanted
21 to add that they didn't get a chance to yet?

22 Anybody have anything you want to say or -
23 - okay. Well, unless anybody is opposed, then we
24 can just -- go ahead, sir.

25 **MR. KUTZ:** So I think that -- this is,

1 again, Steve Kutz with the Cowlitz Tribe. I think
2 we need to throw our rope out a little bit further.
3 So we don't know -- in our -- in our
4 earlier discussion, some of the people talked about
5 the -- the lack of -- lack of enough fish. And you
6 start looking out at some of the Pacific remote
7 islands, the northeast canyons and sea mouths along
8 the Atlantic coast. Some of these places where --
9 where they're, like, islands where not just for --
10 not just islands of land, but islands of places
11 where fish can go propagate and live and move
12 around. And so there's a lot of places that are
13 important, we don't necessarily know where all of
14 our fish go to live and grow and those type of
15 things. And so having a place that protects them
16 also is important. And so -- so I don't necessarily
17 know that there's any Indian people out there in
18 American Samoa, but we sure know there's some
19 Samoans. We know that there's a bunch of Hawaiians
20 that married into our tribes here that are worried
21 about Hawaii and those type of things. And so I
22 just want to speak on their behalf also, because the
23 Native people there that the federal government does
24 not recognize have grave concerns about the same
25 things that we have concerns about. Thank you.

1 **MR. RODMAN:** Again, we have the online and
2 -- online option and email option for written
3 comments on this Executive Order for tribal leaders.
4 That's at consultation@bia.gov, and for the general
5 public and tribal leaders, that's regulations.gov.
6 And for Bears Ears, the comments are due tomorrow.
7 And for all other monuments, that is until July 10.

8 Thank you. I think a lot of us will be
9 maybe hanging out for a few minutes if people have
10 other questions, but thank you very much.

11 **MR. LOUDERMILK:** Thank you.

12 **(Session concluded at 3:50 p.m.)**

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CERTIFICATE

I, Kimberly R. McLain, do hereby certify that the proceeding named herein was professionally transcribed on the date set forth in the certificate herein; that I transcribed all testimony adduced and other oral proceedings had in the foregoing matter; and that the foregoing transcript pages constitute a full, true, and correct record of such testimony adduced and oral proceeding had and of the whole thereof.

IN WITNESS HEREOF, I have hereunto set my hand this 1st day of June, 2017.



Kimberly R. McLain

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IN RE:

LISTENING SESSIONS ON INTERIOR'S

REVIEW OF NATIONAL MONUMENTS

IDENTIFIED UNDER E.O. 13792

PUBLIC MEETING

HELD ON

TUESDAY, MAY 30, 2017

8:30 A.M.

NORTHERN HOTEL

19 NORTH BROADWAY

BILLINGS, MONTANA 59101

1 **PANELISTS**

2

3 DARRYL LACOUNTE, Regional Director

4 **U.S. Department of Interior**

5 **Bureau of Indian Affairs**

6 Rocky Mountain Region

7

8 MARCIA PABLO, Tribal Coordinator/Program Analyst

9 **U.S. Department of Interior**

10 **Bureau of Land Management**

11 Montana/Dakotas State Office

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IN RE:
LISTENING SESSIONS ON INTERIOR'S
REVIEW OF NATIONAL MONUMENTS
IDENTIFIED UNDER E.O. 13792
PUBLIC MEETING
HELD ON
TUESDAY, MAY 30, 2017
8:30 A.M.

MR. LACOUNTE: It is 9:12 a.m. on Tuesday,
May 30th. My name is Darryl LaCounte. We attempted
to hold a listening session regarding national
monuments. There were seven federal employees here
and no tribes and no members of the public. So at
9:15, I am going to call an end to this listening
session.

THE REPORTER: Thank you. Time is 9:15
and we are off the record.

(Whereupon, the proceedings concluded at
9:15 a.m.)

1 CERTIFICATE

2
3 I, Erin Barnhill, do hereby certify that I reported
4 all proceedings adduced in the foregoing matter and that
5 the foregoing transcript pages constitutes a full, true,
6 and accurate record of said proceedings to the best of
7 my ability.

8
9 I further certify that I am neither related to
10 counsel or any part to the proceedings nor have any
11 interest in the outcome of the proceedings.

12
13 IN WITNESS HEREOF, I have hereunto set my hand this
14 14th day of June, 2017.

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20 /S/ Erin Barnhill
21
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23
24
25

<hr/> 1 <hr/> 13792 3:4 <hr/> 2 <hr/> 2017 3:7 <hr/> 3 <hr/> 30 3:7 30th 3:11 <hr/> 8 <hr/> 8:30 3:8 <hr/> 9 <hr/> 9:12 3:10 9:15 3:15 3:17 3:20 <hr/> A <hr/> a.m 3:8 3:10 3:20 am 3:15 attempted 3:11 <hr/> C <hr/> concluded 3:19 <hr/> D <hr/> Darryl 3:11 <hr/> E <hr/> E.O 3:4 employees 3:13 <hr/> F <hr/> federal 3:13	<hr/> H <hr/> HELD 3:6 hold 3:12 <hr/> I <hr/> IDENTIFIED 3:4 INTERIOR'S 3:2 <hr/> L <hr/> LaCounte 3:10 3:11 listening 3:2 3:12 3:15 <hr/> M <hr/> May 3:7 3:11 MEETING 3:5 members 3:14 monuments 3:3 3:13 <hr/> N <hr/> national 3:3 3:12 <hr/> P <hr/> proceedings 3:19 public 3:5 3:14 <hr/> R <hr/> RE 3:1 record 3:18 regarding	3:12 REPORTER 3:17 REVIEW 3:3 <hr/> S <hr/> session 3:12 3:16 SESSIONS 3:2 seven 3:13 <hr/> T <hr/> Thank 3:17 tribes 3:14 Tuesday 3:7 3:10 <hr/> W <hr/> Whereupon 3:19	
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