

**To:** Elizabeth Appel[elizabeth.appel@bia.gov]  
**From:** Rodman, Anthony  
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**Subject:** NCAI National Monuments Comments Filed  
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National Monuments SUBMITTED w Resolutions.pdf

Hi Liz,

NCAI forwarded to me the attached information on the monument review. The attachment includes a letter to Secretary Zinke, analyses of the Antiquities Act and other relevant laws, comments on maintaining monument designations that have particular connections to tribes, recommendations for DOI, and NCAI Resolution.

NCAI indicated they sent them through the comment process, but they wanted to make sure the comments were seen (which is why they sent me a copy too).

Would you be able to send to the appropriate points of contact? Please let me know if you have any questions, and I hope all is well.

Morgan

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# NATIONAL CONGRESS OF AMERICAN INDIANS

July 10, 2017

The Honorable Ryan Zinke  
Secretary of the Interior  
1849 C Street, N.W.  
Washington DC 20240

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Dear Secretary Zinke:

On behalf of the National Congress of American Indians (NCAI), the oldest, largest, and most representative organization of American Indian and Alaska Native tribal governments, we write to express our strong support for maintaining the current designations of the National Monuments that are currently under review by the Department of Interior.

In these comments, we outline monuments under review by the Department of Interior (Department) that present significant objects of historic and scientific interest, consistent with the original 1906 Antiquities Act. We also provide recommendations for the Department on further action and how to meaningfully consult with affected Tribes on this Executive Order.

Because so many objects of significant historic and cultural interest remain within these National Monument boundaries, the Department should meaningfully consult with all impacted Tribes on any potential changes to the National Monuments, their designations or their boundaries. Please consider NCAI a willing partner in facilitating consultations.

NCAI's membership recently passed a resolution in support of National Monument designations at our Mid-Year Conference last month. The membership of the National Congress of American Indians is in unanimous support of upholding original monument designations and insists on not limiting monuments in size with the intent of protecting important historic and cultural resources. (MOH-17-006)

Thank you for your serious consideration of NCAI's comments along with comments of individual Tribal Nations on this important issue

Respectfully,

Brian Cladoosby  
President  
National Congress of American Indians

### **Original Intent of the Antiquities Act: Protecting Tribal Cultural and Historic Properties**

The original purpose of the Antiquities Act was to protect tribal cultural resources on federal lands. The Antiquities Act, enacted in 1906, authorized the President to “declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated upon the lands owned or controlled by the Government of the United States to be national monuments, and may reserve as a part thereof parcels of land.” These historic landmarks include sacred sites that include ancient ruins, rock art, and historic settlements. Objects of historic and scientific interest include culturally significant items such as ancient tools, ceramic pottery, and other archeological findings. NCAI strongly supports the President’s authority to designate monuments (see resolution SD 15-065) but we do not believe that the President or the Executive Branch has the authority under the Antiquities Act to revoke designations or diminish Monuments in size.

The Antiquities Act was enacted in response to incidents of ransacking and looting at Chaco Canyon and Mesa Verde. These culturally significant sites represent incredible historical examples of Pueblo architecture. They stand as evidence of the deep civilization, culture and history that existed in America for thousands of years before the arrival of Europeans. As a result, President Theodore Roosevelt recognized that protection of tribal culture is an integral part of American history and culture that it is worth protecting.

The original intent of the Antiquities Act<sup>1</sup> was to ensure the protection of Native American sacred sites that represent the significant history and culture of the United States. Researchers and anthropologists testified before Congress in favor of the Act for the protection and preservation of “objects of historic or scientific interest.”<sup>2</sup> In the 1904 Senate hearing before the Subcommittee of the Committee on Public Lands, Reverend Dr. Baum actively advocated for the need for the Antiquities Act. In addition to submitting 25 letters of support from fellow researchers and anthropologists, Reverend Dr. Baum stated, “Every ruin that is despoiled is lost forever.”<sup>3</sup> Dr. Charles W. Needham supported Reverend Dr. Baum’s statement and stated these sacred cultural sites are “the only book of history that is not defective because all other knowledge of history depends upon human memory and the coloring that comes from the human mind.”<sup>4</sup> Dr. Needham further stated, if these books of human history are not protected, it would be like “tearing leaves out of the center of the book and leaving it absolutely valueless.”<sup>5</sup> These statements demonstrate that Congress’ original intent when it passed the Antiquities Act, to preserve and protect sacred, cultural sites.

The Antiquities Act is one of the few federal laws that is primarily intended for the protection of Tribal historical, archeological and cultural areas of significance. Since 1906, Presidential administrations have utilized the Act to designate historical and cultural areas of interest as National Monuments to protect “objects of historic or scientific interest.” Moreover, the Supreme Court of the United States has consistently upheld presidential proclamations of National Monuments to protect historical and cultural areas as a valid exercise of authority under the Antiquities Act.

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<sup>1</sup> 16 U.S. 431 433 (1906).

<sup>2</sup> Hearing Before the Subcommittee of the Committee on Public Lands of the U.S. Senate on the Bill S.4127 (1904).

<sup>3</sup> *Id.* at 12.

<sup>4</sup> *Id.* at 26.

<sup>5</sup> *Id.* at 27.

In *Cameron v. United States*<sup>6</sup>, the Supreme Court confirmed the broad authority of the President to designate a large land area as a national monument. In 1908, Roosevelt designated 800,000 acres of the Grand Canyon to protect an “object of usual scientific interest.” The geologic features of the Grand Canyon were noted to be the scientific interest that was meant to be protected in addition to the historic interests in the area.

In *Cappaert v. United States*<sup>7</sup>, the Supreme Court enjoined the Cappaerts from pumping water from their wells that would adversely affect the water levels near the Devil’s Hole National Monument.<sup>8</sup> Devil’s Hole was reserved as a National Monument by Presidential Proclamation under the Antiquities Act in 1952.<sup>9</sup> The Cappaerts argued the Antiquities Act did not extend to water pools; rather the Act was only to protect archeological sites.<sup>10</sup> The Supreme Court held the pool and the pool’s inhabitants in Devil’s Hole are considered “objects of historic or scientific interest.”<sup>11</sup> Because the pool and the pools’ inhabitants fall within this category, the presidential proclamation of the Monument is valid under the Act. *Cappaert v. United States* demonstrates the broad deference to a sitting President’s authority when designating National Monuments under the Antiquities Act.

In 1938, when President Franklin Roosevelt was considering abolishing the Castle-Pickney National Monument in South Carolina, US Attorney General Homer Cummings affirmed that doing so was outside the scope of the President’s authority under the Antiquities Act. He wrote “The statute [The Antiquities Act] does not in terms authorize the President to abolish national monuments, and no other statute containing such authority has been suggested. If the President has such authority, therefore, it exists by implication.”<sup>12</sup> We agree with Attorney General Cummings legal analysis and urge the Department to only use well established authorities during its review of National Monuments. President Roosevelt, in keeping with Attorney General Cummings determination, did not abolish the Castle-Pickney National Monument under his Presidential authority.

The Property Clause of the US Constitution (Article 4, Section 3) grants Congress the power to “dispose of and make all needful Rules and Regulations respecting the Territory or other Property belonging in the United States.” Only Congress has the authority to rule, regulate or dispose of Federal Land. Unless Congress specifically authorizes the Executive to “dispose of” Federal Lands, the Executive has no authority to remove National Monument designations nor does the Executive have the authority to diminish Monuments in size. If Congress had originally intended for the Executive to have the authority to remove designations or diminish them in size, Congress would have explicitly granted such authority. Congress chose not to explicitly grant the Executive this authority both in the original act and in subsequent amendments to the Act relating to specific States. It is clear that the Executive Branch does not have the authority to revoke designations or diminish National Monuments in size and doing so would bring up serious Constitutional concerns.

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<sup>6</sup> *Cameron v. United States*, 252 U.S. 450 (1920).

<sup>7</sup> *Cappaert v. United States*, 426 U.S. 128 (1976).

<sup>8</sup> *Id.* at 128.

<sup>9</sup> *Id.*

<sup>10</sup> *Id.* at 142.

<sup>11</sup> *Id.*

<sup>12</sup> 39 Op. Att’y Gen. 185, 187 (1938).

## **Consideration of Other Statutes when Reviewing National Monuments**

### **The Native American Graves Protection and Repatriation Act**

In addition to considering the Administration's authority under the Antiquities Act, when conducting this review of National Monuments, The Department should consider all statutes that protect Tribal resources and the obligations the Department has to protect human remains, cultural and historical artifacts and areas of historic significance, including the Native American Graves Protection and Repatriation Act. The culture and traditional religions of American Indian and Alaska Native peoples require the protection of the physical integrity of their sacred places and objects.

The Native American Graves Protection and Repatriation Act (NAGPRA) was enacted in 1990 to protect the human remains of deceased Native Americans and to return objects of patrimony to the Tribes. Currently, the National Parks Service oversees NAGPRA implementation and has provided the framework for the Federal Government when working on issues that impact the protected properties. Considering that the majority of Monuments under review do have graves and ancient remains, the Department must take measures to protect those areas within the monument designations to uphold their NAGPRA obligations. In addition to consulting directly with Tribal Nations on this issue, the Department of Interior should also consider past protections and decisions made by the National Parks Service and the Bureau of Indian Affairs regarding human remains and objects of patrimony.

### **The Importance of Access and Religious Freedom**

Access to and usage of these lands and objects is integral to the preservation of Native life and religious freedom. The American Indian Religious Freedom Act of 1978 (AIRFA) upholds the Constitutional right to freedom of religion for Native American traditional religious practices. The AIRFA "protect[s] and preserve[s] for American Indians their inherent right of freedom to believe, express and exercise the traditional religions of the American Indian, Eskimo, Aleut, and Native Hawaiians, including but not limited to *access to sites*, use and possession of sacred objects, and the freedom to worship through ceremonials and traditional rites." Critical to this statute is the importance of access to areas on Federal Land for the practice of ceremonies and traditional religious practices.

Secretary Zinke has appeared before Congress twice and both times he stressed the importance of allowing tribal access to Public Lands. Both in his Confirmation Hearing before the Senate Energy and Natural Resources Committee, and Oversight Hearing in the Senate Committee on Indian Affairs entitled "Identifying Indian Affairs priorities for the Trump Administration," Secretary Zinke assured that Public Lands under the Department of Interior would remain accessible. Considering that accessibility is a priority of the Administration, NCAI urges Secretary Zinke to use his authority to protect current monument designations to ensure the Native People of these designated areas are allowed to continue hunting, fishing and religious practices within the National Monument designations.

Both statutes described above protect Native American graves, religion and objects of patrimony. These protections, combined with the land protections of the Antiquities Act, uphold the US Government's trust responsibility to Indian Tribes and allow for the Constitutional right of free practice of religion. The intricate system requires the Department of Interior to continue Tribal access to areas designated as National Monuments. Protecting Tribes and their sacred places

protects the culture of the United States. Preserving the history of the United States benefits all Americans.

### **Monuments of Significant Interest to Indian Tribes**

On April 26<sup>th</sup>, 2017, President Trump signed Executive Order 13792 directing the Secretary of Interior to review National Monument designations made since 1996. The Executive Order focused on Monuments that did not adequately outreach to the local community. As a part of carrying out this Executive Order, the Secretary of Interior opened this issue up for public comment, for which NCAI submits these comments. The purpose of this filing is to show the Department of Interior that these Monuments under review were established to protect historic, cultural and scientific resources that the Antiquities Act was enacted to protect.

Since Executive Order 13792 was signed, the Department of Interior has held Tribal Consultations and Listening Sessions with Tribal Leaders. One listening session occurred at NCAI's Mid-Year Conference in Uncasville, Connecticut on June 12<sup>th</sup>. In this listening session, the Department of Interior heard Tribal Leaders unite in opposition to the removal of designations as well as opposing decreasing Monuments in size. Tribal Leaders from all regions of the United States spoke about the importance of retaining National Monuments. Many of the 27 monuments under review contain significant historic and scientific interest and their original designations are consistent with intent of the Antiquities Act.

In addition to the prior consultations hosted by the Department of Interior, the Department must meaningfully consult with each tribe that is affected by any changes to any National Monument as well as consider the historic landmarks, historic and prehistoric structures and objects of historic and scientific significance that remain in the Monuments.

#### **Sonoran Desert National Monument**

The Sonoran Desert in Arizona contains a significant number of historic and archeological sites. The Sonoran Desert served as prehistoric trade and travel corridors for the Hohokam and other southwestern tribes. The Sonoran Desert also holds several ancient sites of large villages. Those ancient village sites housed the tribal ancestors of many tribes like the Tohono O'odham Nation and Salt River Pima-Maricopa Indian Community. Consistent with the original objective of the Antiquities Act, the Sonoran Desert National Monument serves to protect historic and prehistoric structures and objects of historic significance.

#### **Berryessa Snow Mountain National Monument**

The Berryessa Snow Mountain area in California has been the homeland for several California tribes for over 11,000 years. The Yuki, Nomlaki, Patwin, Pomo, Huchnom, Wappo, Lake Miwok, and Wintum consider the Berryessa Snow Mountain area as their homelands. The area contains several ancient settlements from hunting and gathering camps to major villages. Tools and task sites are still present throughout the region. During the European-American settlement of California, these tribes were displaced from their homelands. Traditional hunting grounds and gathering sites were converted into logging and grazing areas. Consistent with the original objective of the Antiquities Act, the Berryessa Snow Mountain National Monument protects ancient settlements, prehistoric structures, tools and objects of historic significance.

#### **Bears Ears National Monument**

Since time immemorial, the Bears Ears and surrounding land in Southeastern Utah have served as a homeland and place of spiritual and cultural significance to tribal people. The Bears Ears area contains over 100,000 archaeological sites and holds sacred significance to the region's tribal

identities, histories, and traditions. It is important that Bears Ears remains as a national monument to allow tribal peoples access to these spiritual sites.

Tribal leaders from Hopi, Navajo, the Ute Mountain Ute, Zuni, and the Uintah & Ouray Ute formed the Bears Ears Inter-Tribal Coalition with the goal of protecting and preserving their traditional homeland area of the Bears Ears region. The Bears Ears Inter-Tribal Coalition aims to secure permanent protection for these lands. NCAI's membership strongly supports the Bears Ears Inter-Tribal Coalition's intent to permanently secure the Bears Ears National Monument designation.

NCAI filed comments of support for the Bears Ears National Monument in May, 2017. NCAI continues to ask the Department of Interior to uphold the Bear Ears National Monument designation. See attached resolution in support EC- 15-002.

### **Basin and Range National Monument**

The Basin and Range National Monument in Nevada also contains a rich archaeological record. The Basin and Range area served as forging and hunting grounds for the ancestors of the Shoshone and Southern Paiute tribes over 1,500 years ago. The Basin and Range area contains shelters, processing equipment, clay stockpiles, and rock art. This monument preserves over 13,000 years of culture. Consistent with the original objective of the Antiquities Act, the Basin and Range National Monument protects historic landmarks like ancient rock art, prehistoric structures like shelters and objects of historic significance such as processing equipment and tools. It is vital that this monument is preserved to protect these objects of scientific and cultural interest.

### **The Canyon of the Ancients**

The Canyon of the Ancients monument in Colorado contains remarkable cultural resources that require protection. Ancient people lived and labored within the canyons for thousands of years. The canyons contain villages, kivas, shrines, sacred springs, sweat lodges, and thousands more undocumented sacred sites. These sites are considered sacred to the Ute, the Navajo, and the Pueblo people. The complex canyon landscape also serves as homes for sacred animals like the golden eagle. The Canyon of the Ancients National Monument is a prime example of what the Antiquities Act was intended to protect: historic and prehistoric structures like kivas, villages and shrines, as well as objects of historic significance like the tools and ancient objects that have existed in this space for centuries.

### **Carrizo Plain National Monument**

The Carrizo Plain National Monument is an important cultural site for the Chumash, Salinan, and Yokut people in California. The local tribal communities utilized the area as their hunting grounds and trade network. The site contains ancient pictographs and archeological sites like Painted Rock. These ancient sites are considered historic landmarks and the archeological sites within the Monument are considered prehistoric structures. The local tribal communities utilize Painted Rock for ceremonial and religious purposes.

### **Cascade-Siskiyou National Monument**

The Cascade-Siskiyou National Monument lies within the original territory of the Klamath, Modoc, and Yahooskin Paiute tribes. The Modoc, Klamath, and Shasta tribes occupied the area for over thousands of years. The national monument contains over 100 dwelling and root-gathering sites from the Modoc, Klamath, and Shasta tribes. These dwelling sites contain objects of cultural and scientific interest, consistent with the original objective of the Antiquities Act and need to remain protected to ensure their history is passed on to future generations. The Klamath tribes are also



committed to revitalizing the local salmon and fish populations, protected by treaty right, that depend on the ecosystem preserved by the National Monument. The protection of these objects of cultural and scientific interest must remain protected and preserved.

### **Craters of the Moon National Monument and Preserve**

The Craters of the Moon National Monument and Preserve served as a migration and trade network for the Northern Shoshone, Bannock and Paiute tribes. The Northern Shoshone also hunted large game within the area, such as elk, bears, bison, and bighorn sheep. The geological history of the national monument serves as a setting for many Northern Shoshone legends. For example, the tribe has a legend that speaks of a serpent that wrapped around the mountains and squeezed the mountain until liquid rock and fire came out. This legend demonstrates the tribe's witness of the volcanic eruptions that created the land.

In addition to the Tribal historic interest in the Monument, Craters of the Moon is a scientific wonder and protects the best preserved flood basalt area in the continental United States. The three lava fields within the monument contain the best examples of open rift cracks in the world. These geologic areas provide scientists a better understanding of the ancient volcanoes that shaped the Western United States. The Craters of the Moon National Monument contains millions of years of scientific and cultural history that needs to remain protected. The designation and expansion of the Craters of the Moon National Monument is clearly consistent with the original objective of the Antiquities Act to preserve significant scientific areas.

### **Gold Butte National Monument**

The Gold Butte National Monument contains hundreds of petroglyphs that are unique to the local area. Over 400 rock art panels and more than 3,500 individual petroglyphs have been identified throughout the Gold Butte area. The Moapa Band of Paiute advocated for the protection of these ancient cultural sites and utilize the area for ceremonial purposes such as collecting medicinal plants. The rock art and petroglyphs found in the Gold Butte National Monument are clearly in line with the original intent of the Antiquities Act and the monument designation should remain.

### **Grand Canyon-Parashant National Monument**

The Grand Canyon – Parashant National Monument is within the original territorial boundaries of the Southern Paiute Nation. The Mount Trumbull area, Nixon Spring-Unikaret Pueblo, and the Toroweap overlook are sacred areas for the Southern Paiute Nation. The Southern Paiute Nation has led active efforts to rehabilitate the area's native vegetation. Tribes like the Southern Paiute Nation require consultation to ensure their natural rehabilitation efforts are continued. See attached NCAI Resolution in support PHX-16-079.

### **Grand Staircase-Escalante National Monument**

The Grand Staircase-Escalante National Monument has a rich archeological record of the ancestral Puebloan groups of the Anasazi and Fremont. The area is also home to the Southern Paiute tribe. The national monument has pottery shards, petroglyphs, camp sites, and residential ruins of the ancestral Puebloan people. The camp sites and residential ruins found at the Grand Staircase-Escalante National Monument are examples of prehistoric structures identified in the original statute. Pottery shards and petroglyphs are clear examples of "objects of historic interest," consistent with the Antiquities Act. These objects of cultural and scientific interest are irreplaceable and should remain protected for future generations.

### **Hanford Reach National Monument**

The Hanford Reach National Monument located in Central Washington State contains significant objects of both historic and scientific interest. The Monument contains more than 10,000 years of archeological remains and objects of historic and cultural interest to the Tribes of the Columbia Plateau including the Yakama Nation, Confederated Tribes of Umatilla, Nez Perce Tribe, Colville Confederated Tribes, Warm Springs and Coeur d Alene. The white bluffs along the river contain many ancient ceremonial sites and antiquities.

The Hanford Reach National Monument is a 51 mile undammed stretch of the Columbia River and contains the largest spawning beds for Columbia River Salmon. Not only is the Columbia River the largest Salmon producing river in the world, its fishing industry provides thousands of jobs in Washington, Oregon, California and Alaska that depend on the pristine spawning habitat that is currently protected by the Hanford Reach National Monument.

In addition to the cultural, ecological and economic benefits of the National Monument, the Hanford Reach contains extremely significant objects of scientific history due to the Hanford Nuclear Reservation. During World War II, plutonium that was produced for the Manhattan Project in the first nuclear bombs was produced here.

### **Ironwood Forest National Monument**

The Ironwood National Forest in Arizona contains significant objects of historical significance. The Tohono O'odham, Ak-Chin Indian Community, Fort Yuma, Gila River Indian Community, Pascua Yaqui, Salt River Pima-Maricopa Community and, Fort McDowell all have historical ties to the area and must be consulted on changes occurring in the monument. More than 250 sites from the prehistoric Hohokam period (600 A.D. to 1450 A.D.) have been recorded in the area, of which 72% contained ceramic pottery and other objects of historic interest dating between the years of 950 and 1450 AD. Extensive rock art has been identified in 24 localities within the Monument.

Two areas within the monument have been listed on the National Register of Historic Places, the Los Robles Archeological District and the Cocoraque Butte Archeological District. Archeological artifacts include rhyolite and brown chert chipped stone, plain and decorated ceramics, and worked shell from the Gulf of California. The area also contains the remnants of the Mission Santa Ana, the last mission constructed in Pimeria Alta by Spanish Missionaries. The Ironwood Forest National Monument contains significant objects of historic interest dating back over 1,000 years.

### **Mojave Trails National Monument**

The Mojave Trails National Monument in California served as trails for the ancestors of the Chemehuevi Indian Tribe. Those trails are tied to traditional and ceremonial songs of the Chemehuevi. Sacred songs are sung at specific locations throughout the monument making Tribal access to the Monument a top consideration for the Department of Interior. The monument encompasses the Ward Valley. The Ward Valley is located between the Old Woman and Piute Mountains, which are sacred to many local tribes. There are also objects of cultural and scientific interest scattered throughout the monument including archeological sites that contain petroglyphs, milling station, camp sites, and pottery. There is also ancient rock art located near the dry river beds.

### **Organ Mountains – Desert Peaks**

The Organ Mountains – Desert Peaks in southern New Mexico are rich with hundreds of cultural artifacts that are objects of historical and scientific interest. The monument houses rock art,

dwellings, and other evidence of the original inhabitants of the land. The monument also houses cave dwellings that contain basket fragments, and obsidian points. Geronimo's Cave and Outlaw Rock also lies within the national monument boundaries.

### **Sand to Snow National Monument**

The Sand to Snow National Monument in southern California is considered a sacred place to the Serrano and Cahuilla Indian people. The Luiseño Indian tribe also considers the area sacred. The southern California tribes come to the base of the San Gorgonio Mountain to gather food, medicinal plants, basket making material, and hunt. The San Gorgonio Pass also served as a trade route between Arizona and the California coast. The Sand to Snow National Monument is a culturally rich area that requires tribal consultation to ensure the protection of their cultural resources.

### **Rio Grande Del Norte**

The Rio Grande Del Norte national monument lies within the traditional boundaries of the Taos Pueblo, Picuris Pueblo, Jicarilla Apache, and Ute Tribe. The national monuments houses thousands of rock art installations carved in the boulders and cliffs. The lands also contain pit houses, ceramic shards, ancient tools and projectiles, and large ceramic vessels. The Rio Grande Del Norte contains thousands of ancient objects that are of scientific and cultural interest. Sacred bald eagles roost in the river areas that lie within the national monument. It is clear that the objects of historic interest within the Rio Grande Del Norte National Monument are consistent with the original objectives of the Antiquities Act.

### **Upper Missouri River Breaks National Monument**

The Upper Missouri River area is home to numerous tribes, including the Blackfeet, Assiniboine, Gros Ventre, Crow, Rocky Boy, Fort Belknap, Turtle Mountain and Fort Peck. Ancient petroglyphs are present in the canyons of the Upper Missouri and within the Monument boundaries. The confluence of the Judith and Missouri Rivers was the setting for important tribal peace councils in 1846 and 1855 as well as trade. In 1877, the Nez Perce crossed the Missouri in their attempt to escape the US Calvary. Lewis and Clark established camps in the area in the 1830's. The area is rich in history for Tribes and is an important historic landmark that continues the legacy of the Corps of Discovery.

### **Vermilion Cliffs National Monument**

The Vermilion Cliffs National Monument in northern Arizona holds many objects of scientific and cultural interest. Ruins from hundreds of ancient pueblos spread across this national monument. There are remains of villages, granaries, burial sites, and rock art. The petroglyphs found within the Vermilion Cliffs are believed to be the oldest in the United States. Local tribes view these sites as sacred places and these sacred places need to be protected. The best way to protect these sites and the objects of cultural and scientific interest is through tribal consultation.

**Recommendations:**

- NCAI urges the Department of Interior to reserve all Monuments under review as permanent National Monuments for the generations to come.
- NCAI requests the Department of Interior to conduct meaningful government-to-government consultation with all impacted Tribal Nations on the effects of any agency action on National Monument designation. NCAI stands ready to work with the Department of Interior to make the consultation process productive and effective.
- NCAI requests the Department of Interior to adopt co-management proposals from Tribal Governments and Inter-Tribal Coalitions to recognize Tribal priorities for preserving and protecting their Treaty rights.
- NCAI requests the Department of Interior to protect traditional practices on all National Monument and public lands. This includes, but is not limited to, hunting, fishing, and the gathering of firewood, traditional medicines, herbs and ceremonial plants.
- NCAI requests the Department of Interior to reserve Tribal Access to all National Monuments under review and to allow for religious practices and freedoms within National Monument boundaries.
- NCAI requests the Department of Interior to prioritize the protection of cultural and archeological sites when conducting this review. In doing so, the Department of Interior will be executing the original intent of the Antiquities Act. By working collaboratively, the Department of Interior and Tribal Governments can ensure these sacred sites remain for our future generations.

**Conclusion:**

In conclusion, NCAI strongly supports National Monuments and urges the Department of Interior to uphold all Monument designations. All of the National Monuments cited above hold great historical, cultural and scientific objects of significance and are clearly in line with the original intent of the Antiquities Act. NCAI thanks the Department of Interior for allowing the first ever public comment on National Monuments and is happy to collaborate with the Department to assist future Tribal consultation.

For further questions, please reach out to NCAI Policy Analyst Maria Givens at [mgivens@ncai.org](mailto:mgivens@ncai.org)



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #MOH-17-006

### **TITLE: In Support of Preserving National Monument Designations**

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, since time immemorial, the land of the United States has been a homeland and place of spiritual and cultural significance to tribal people. Tribal people remain dependent on public lands to maintain traditional livelihoods and cultural practices, such as hunting, gathering, and ceremonial uses; and

**WHEREAS**, for the last century, tribal nations and tribal members have experienced removal from these ancestral homelands, and afterward, limited access to the land. Tribal nations and tribal members have also witnessed the looting of graves and sacred sites, and threats from more modern land uses such as off-road vehicle use and energy development; and

**WHEREAS**, the Antiquities Act was originally intended to protect American Indian cultural and archaeological resources and has subsequently been used by Presidents of both parties to permanently protect significant tribal cultural and archeological sites; and

**WHEREAS**, on April 26<sup>th</sup>, 2017 President Trump signed Executive Order 13792- a Review of Designations Under the Antiquities Act, where The President ordered the Department of Interior to review 27 National Monuments designated since 1996; and

**WHEREAS**, Indian trust lands and resources are a significant basis for tribal treaties and agreements with the United States which are the Supreme Law of the Land, and the United States has a legal and moral obligation to uphold the treaty and trust responsibilities that define the relationship between the federal government and Indian tribes; and

NCAI 2017 Midyear

Resolution MOH-17-006

**WHEREAS**, National Monuments under review include Bears Ears, Canyon of the Ancients, Basin and Range, Grand Staircase-Escalante, Hanford Reach, Sonoran Desert, Berryessa Snow Mountain and the Upper Missouri River Breaks, all of which contain significant Tribal Cultural and Historic resources within the original designation boundary; and

**WHEREAS**, The Antiquities Act does not identify Executive authority for rescinding National Monuments and there is no legal precedent for doing so.

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) does hereby urge the Administration to preserve all National Monument boundaries as they were originally designated and to not limit them in size. NCAI urges the Administration to preserve and protect all National Monuments with distinct historic and cultural value to Tribes; and

**BE IT FURTHER RESOLVED**, that NCAI continues to oppose any attempt to take tribal, federal, state, and county land and sacred landscapes, including, but not limited to, the Ute Indian Tribe's Uncompahgre Reservation lands; and

**BE IT FURTHER RESOLVED**, that NCAI urges the Department of Interior to meaningfully consult with Tribal Governments or Tribal Government Coalitions affected by Executive Order 13792 during the Department's review of National Monument Designations or when considering future changes to National Monument Designations; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2017 Midyear Session of the National Congress of American Indians, held at the Mohegan Sun Convention Center, June 12 to June 15, 2017, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #PHX-16-079

### TITLE: Support for Designation of Grand Canyon Heritage National Monument

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, the Grand Canyon is a location of significance to the Native People of the Southwest with numerous locations of religious and cultural importance within the area designated as Grand Canyon National Park and on the Federal lands surrounding the Park; and

**WHEREAS**, the springs and seeps that provide the water for life in the Canyon for us and for the plants and animals on which we depend must be protected from depletion and from contamination and are at risk; and

**WHEREAS**, the ancient trails that we travel to reach each other travel through the Canyons, between the springs and across the Plateau are at risk; and

**WHEREAS**, the proposed legislation recognizes the importance of these lands to the Native People affiliated with the Grand Canyon Region and provides an advisory role for our Tribes and Nations regarding management of the National Monument so that we may inform the land management agencies about impacts from proposed actions; and

**WHEREAS**, mining and in particular the expansion of uranium mining around the Grand Canyon poses the greatest threat to our springs and seeps and to our continued use of these lands for our religious, cultural and traditional purposes; and

**WHEREAS**, the designation of the Grand Canyon Heritage National Monument will ban new uranium mining claims within the Monument.

NCAI 2016 Annual

Resolution PHX-16-079

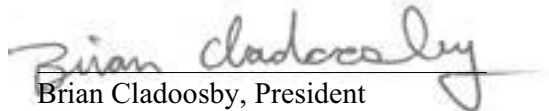
**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians support the passage of legislation to create the Grand Canyon Heritage National Monument; and

**BE IT FURTHER RESOLVED**, alternatively, the NCAI also supports a Presidential Proclamation establishing the Grand Canyon Heritage National Monument under the authority of the Antiquities Act; and

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2016 Annual Convention of the National Congress of American Indians, held at the Phoenix Convention Center, October 9 to October 14, 2016, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary





# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #EC-15-002

### **TITLE: Supporting the Presidential Proclamation of the Bears Ears National Monument, Including Collaborative Management Between Tribal Nations and the Federal Agencies**

**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, since time immemorial, the Bears Ears and surrounding land in Southeastern Utah have been a homeland and place of spiritual and cultural significance to tribal people. This living landscape continues to nurture, strengthen, and sustain tribal people, and tribal people remain dependent on these public lands to maintain our traditional livelihoods and cultural practices, such as hunting, gathering, and ceremonial uses.

**WHEREAS**, for the last century, tribal nations and tribal members have experienced removal from these ancestral homelands, and afterward, limited access to the land. Tribal nations and tribal members have also witnessed the looting of graves and sacred sites, and threats from more modern land uses such as off-road vehicle use and energy development.

**WHEREAS**, tribal leaders from Hopi, Navajo, Ute Mountain Ute, Zuni and Uintah & Ouray Ute formed the Bears Ears Inter-Tribal Coalition with the goal of protecting and preserving the homeland area of the Bears Ears region.

**WHEREAS**, the Bears Ears Inter-Tribal Coalition's chosen outcome is for President Obama to use his powers under the Antiquities Act to declare the Bears Ears National Monument, and secure permanent protection for these lands.

**WHEREAS**, the Bears Ears Inter-Tribal Coalition requests that President Obama proclaim the 1.9 million Bears Ears National Monument to honor the worldviews of our ancestors and Tribes today.

**WHEREAS**, the Bears Ears Inter-Tribal Coalition proposal asks that the new monument be managed under a path-breaking, comprehensive, and entirely workable regime of true Federal-Tribal Collaborative Management.

**WHEREAS**, the Bears Ears National Monument has every opportunity to serve as the shining example of the trust, the government-to-government relationship, and innovative, cutting-edge land management.

**NOW THEREFORE BE IT RESOLVED**, that NCAI does hereby urge President Obama to use his powers under the Antiquities Act to declare the Bears Ears National Monument and, by doing so, provide permanent protection for these lands.


**BE IT FURTHER RESOLVED**, that NCAI does hereby support the Navajo, Hopi, Zuni, Uintah & Ouray Ute, and Ute Mountain Tribes that comprise the Bears Ears Inter-Tribal Coalition and their shared goal of permanently protecting the Bears Ears region.

**BE IT FURTHER RESOLVED**, that NCAI does hereby support the Bears Ears National Monument being meaningfully co-managed between the Bears Ears Inter-Tribal Coalition Tribes and federal management agencies for the purpose of honoring the trust relationship, protecting tribal sacred homelands, and preserving traditional and cultural ways of life.

**BE IT FINALLY RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

#### CERTIFICATION

The foregoing resolution was adopted by the Executive Committee of the National Congress of American Indians, held via a poll of Board Members, September 20, 2015 in Washington, D.C. with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary



# NATIONAL CONGRESS OF AMERICAN INDIANS

## The National Congress of American Indians Resolution #SD-15-065

### TITLE: Support for the Presidential Authorities to Declare National Monuments under the 1906 Antiquities Act

#### EXECUTIVE COMMITTEE

PRESIDENT  
**Brian Cladoosby**  
*Swinomish Tribe*

FIRST VICE-PRESIDENT  
**Randy Noka**  
*Narragansett Tribe*

RECORDING SECRETARY  
**Aaron Payment**  
*Sault Ste. Marie Tribe of Chippewa  
Indians of Michigan*

TREASURER  
**W. Ron Allen**  
*Jamestown S'Klallam Tribe*

#### REGIONAL VICE- PRESIDENTS

ALASKA  
**Jerry Isaac**  
*Native Village of Tanacross*

EASTERN OKLAHOMA  
**Joe Byrd**  
*Cherokee Nation*

GREAT PLAINS  
**Leander McDonald**  
*Spirit Lake Nation*

MIDWEST  
**Roger Rader**  
*Pokagon Band of Potawatomi*

NORTHEAST  
**Lance Gumbs**  
*Shinnecock Indian Nation*

NORTHWEST  
**Fawn Sharp**  
*Quinault Indian Nation*

PACIFIC  
**Jack Potter, Jr.**  
*Redding Rancheria*

ROCKY MOUNTAIN  
**Darrin Old Coyote**  
*Crow Nation*

SOUTHEAST  
**Larry Townsend**  
*Lumbee Tribe*

SOUTHERN PLAINS  
**Liana Onnen**  
*Prairie Band of Potawatomi Nation*

SOUTHWEST  
**Joe Garcia**  
*Ohkay Owingeh Pueblo*

WESTERN  
**Bruce Ignacio**  
*Ute Indian Tribe*

EXECUTIVE DIRECTOR  
**Jacqueline Pata**  
*Tlingit*

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**WHEREAS**, we, the members of the National Congress of American Indians of the United States, invoking the divine blessing of the Creator upon our efforts and purposes, in order to preserve for ourselves and our descendants the inherent sovereign rights of our Indian nations, rights secured under Indian treaties and agreements with the United States, and all other rights and benefits to which we are entitled under the laws and Constitution of the United States, to enlighten the public toward a better understanding of the Indian people, to preserve Indian cultural values, and otherwise promote the health, safety and welfare of the Indian people, do hereby establish and submit the following resolution; and

**WHEREAS**, the National Congress of American Indians (NCAI) was established in 1944 and is the oldest and largest national organization of American Indian and Alaska Native tribal governments; and

**WHEREAS**, the protection of the traditional cultural properties and sacred places of American Indian and Alaska Native people is paramount to each tribe's cultural preservation now and into the future; and

**WHEREAS**, the 1906 Antiquities Act allows the President of the United States to act in the national interest to designate national monuments to protect areas that have cultural, historical, and environmental significance; and

**WHEREAS**, there are many sites of vital importance to Native peoples' identity and history; and

**WHEREAS**, these ancestral sites are under constant threat of grave digging, cultural vandalism, looting of cultural sites, indiscriminate vehicle use that damages sacred areas, development footprints that negatively impact lands of historic and cultural importance, and general degradation of wildlife and plant habitats of importance to traditional practices; and

**WHEREAS**, the designation of national monuments will provide additional protections for these cultural, historical, and environmentally significant lands; and

**WHEREAS**, there have been many threats to the Presidential authority to declare national monuments by efforts in Congress to undermine, weaken, or destroy these authorities through legislative means.

NCAI 2015 Annual

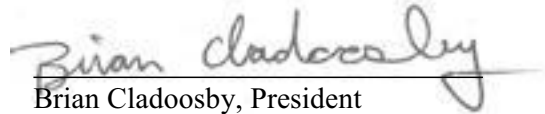
Resolution SD-15-065

**NOW THEREFORE BE IT RESOLVED**, that the National Congress of American Indians (NCAI) supports the authority of the President of the United States to designate national monuments to protect significant historic, cultural, and environmental areas under the 1906 Antiquities Act; and

**BE IT FURTHER RESOLVED**, that this resolution shall be the policy of NCAI until it is withdrawn or modified by subsequent resolution.

### CERTIFICATION

The foregoing resolution was adopted by the General Assembly at the 2015 Annual Session of the National Congress of American Indians, held at the Town and Country Resort, San Diego, CA, October 18-23, 2015, with a quorum present.

  
Brian Cladoosby, President

**ATTEST:**

  
Aaron Payment, Recording Secretary