

**To:** Aaron Moody[aaron.moody@sol.doi.gov]  
**Cc:** Kevin Haugrud[jack.haugrud@sol.doi.gov]  
**From:** Jorjani, Daniel  
**Sent:** 2017-05-01T17:38:44-04:00  
**Importance:** Normal  
**Subject:** Fwd: Bears Ears and the EO  
**Received:** 2017-05-01T17:39:34-04:00  
[NTHP Testimony HNR Federal Lands Antiquities Act Hearing 5-2-17.pdf](#)

FYI from NTHP

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

**From:** **Tom Cassidy** <[TCassidy@savingplaces.org](mailto:TCassidy@savingplaces.org)>  
**Date:** Mon, May 1, 2017 at 5:34 PM  
**Subject:** RE: Bears Ears and the EO  
**To:** "Jorjani, Daniel" <[daniel\\_jorjani@ios.doi.gov](mailto:daniel_jorjani@ios.doi.gov)>

Dan,

And in the spirit of open communication I've attached a copy of our testimony for tomorrow's national monument hearing.

We can catch up on a number of very positive numbers in the Interior bill on HPF, NPS deferred maintenance and also strong report language to NPS re historic leasing (each of which we worked diligently on).

Best,

Tom

**From:** Jorjani, Daniel [mailto:[daniel\\_jorjani@ios.doi.gov](mailto:daniel_jorjani@ios.doi.gov)]  
**Sent:** Thursday, April 27, 2017 3:22 PM  
**To:** Tom Cassidy <[TCassidy@savingplaces.org](mailto:TCassidy@savingplaces.org)>  
**Subject:** Re: Bears Ears and the EO

Tom - Much appreciated.

On Thu, Apr 27, 2017 at 3:20 PM, Tom Cassidy <[TCassidy@savingplaces.org](mailto:TCassidy@savingplaces.org)> wrote:

Dan,

I've attached 2 documents.

First, the statement Stephanie Meeks released yesterday. I wanted you to get this from me. As you would expect, we are very concerned with the EO and the long-term protection of places we have worked hard to protect. We also very much want to maintain open communication with you and your team, the Secretary and the President. We welcome any opportunity to engage with the Secretary and your team in any process you may establish to respond to the EO.

Second, to provide you a broader picture of our long-term engagement to protect the world class cultural resources of Bears Ears, I've included Stephanie's testimony that was submitted to the Natural Resources Committee hearing on the PLI last September.

I look forward to seeing you soon.

Of course, if you have any questions about our perspectives on these issues, please do not hesitate to communicate with me.

Best,

Tom

**Thomas J. Cassidy, Jr.** | VICE PRESIDENT FOR GOVERNMENT RELATIONS AND POLICY  
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**National Trust for  
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**HOUSE NATURAL RESOURCES COMMITTEE  
SUBCOMMITTEE ON FEDERAL LANDS  
“EXAMINING THE CONSEQUENCES OF EXECUTIVE BRANCH OVERREACH OF THE  
ANTIQUITIES ACT”  
MAY 2, 2017**

**STEPHANIE MEEKS, PRESIDENT AND CEO  
NATIONAL TRUST FOR HISTORIC PRESERVATION  
TESTIMONY SUBMITTED FOR THE RECORD**

Chairman McClintock, Ranking Member Hanabusa, and members of the Committee, thank you for the opportunity to provide the National Trust for Historic Preservation’s perspective on the Antiquities Act—our nation’s first preservation law focused on protecting cultural resources on our public lands.

The National Trust for Historic Preservation is a privately-funded charitable, educational and nonprofit organization chartered by Congress in 1949 to “facilitate public participation in historic preservation” and to further the purposes of federal historic preservation laws.<sup>1</sup> The intent of Congress was for the National Trust “to mobilize and coordinate public interest, participation and resources in the preservation and interpretation of sites and buildings.”<sup>2</sup> With headquarters in Washington, D.C., nine field offices, 27 historic sites, more than one million members and supporters and a national network of partners in states, territories, and the District of Columbia, the National Trust works to save America’s historic places and advocates for historic preservation as a fundamental value in programs and policies at all levels of government.

**History and Scope of the Antiquities Act of 1906**

The Antiquities Act is our nation’s oldest law to protect historic, prehistoric, and scientific features on federal public lands. Haphazard development and commercial looting of artifacts in the late 19th century gave rise to a movement to preserve archaeological sites and cultural resources on public lands. Signed into law by President Theodore Roosevelt, the Antiquities Act gives the president the authority to designate national monuments on federal lands to protect “objects of historic or scientific interest.” Since its enactment, 16 presidents—eight Republicans and eight Democrats—have used this authority provided to designate more than 150 national monuments.

The Antiquities Act states that existing federal lands reserved as monuments should be confined to “the smallest area compatible with the proper care and management of the objects to be protected.”<sup>3</sup> Historic preservation and the care of objects of antiquity require context. For many national monuments, landscape scale protections are necessary to properly manage and protect historic resources consistent with the Antiquities Act. It is often not simply a physical object or structure, but how objects or structures fit together on a landscape to tell the story of historic or prehistoric people’s connections to a place that matters.

<sup>1</sup> 54 U.S.C. §§ 312102(a), 320101.

<sup>2</sup> S. Rep. No. 1110, 81st Cong., 1st Sess. 4 (1949).

<sup>3</sup> 54 U.S.C. § 312102(b).

Monument designations on public lands have ranged in size from less than an acre at the Birmingham Civil Rights National Monument to more than 10 million acres at Wrangell-St. Elias in Alaska, which Congress re-designated as a National Park and Preserve in 1980. Courts have deferred to the President's judgment about the proper size for a monument, including in a 2002 case challenging designation of the Giant Sequoia National Monument that stands at more than 300,000 acres.<sup>4</sup>

Notably, President Theodore Roosevelt's 1908 designation of the 808,120-acre Grand Canyon National Monument under the Antiquities Act was challenged after a prospective miner sought to establish a new mine on monument lands. The ensuing case reached the U.S. Supreme Court, which found in 1920 that President Roosevelt had not exceeded the scope of his authority under the Antiquities Act with the size of the monument designation.<sup>5</sup>

### **Presidential Executive Order Reviewing Monument Designations Under the Antiquities Act**

On April 26, 2017, President Donald Trump issued an Executive Order on the "Review of Monument Designations under the Antiquities Act." This action calls on the Department of the Interior to review all monument designations and expansions since January 1, 1996 that total over 100,000 acres in size or those that it deems to have included insufficient outreach and consultation.

We are concerned that this executive order could undermine protections for many of our nation's most significant cultural landscapes. Since its first use by President Theodore Roosevelt in 1906, Democratic and Republican presidents alike have used the Antiquities Act to designate iconic American places from the Statue of Liberty to Devils Tower to the Grand Canyon.

These national monument designations often have occurred after years of consultation and engagement with a diverse range of stakeholders, including Native American tribes, state and federal elected officials, conservation and preservation organizations, and the public. At Utah's Bears Ears, for example, the National Trust was part of a broad and inclusive multi-year process to find a bipartisan legislative solution that would protect the tens of thousands of cultural and archaeological resources found there.

Like Bears Ears, the cultural landscapes and other places protected through the Antiquities Act help to tell the full story of this nation. They generate significant economic returns for local economies. And millions of Americans who visit our national monuments and other protected areas gain an appreciation and understanding of our history that cannot be adequately conveyed in a book or a classroom. Perhaps that helps explain the enduring popularity of national monuments among the public—a 2017 Colorado College poll found that 80 percent of Western voters support existing monument designations.<sup>6</sup>

As this review moves forward, we will continue to engage with the Administration and with this Committee to advocate for the importance of our national monuments and the many ways these places benefit current and future generations of Americans.

<sup>4</sup> *Tulare County v. Bush*, 306 F.3d 1138, 1142 (D.C. Cir. 2002).

<sup>5</sup> *Cameron v. United States* 252 U.S. 450 (1920)

<sup>6</sup> "2017 Conservation in the West Survey," conducted by Public Opinion Strategies and Fairbank, Maslin, Maullin, Metz & Associates for the Colorado College State of the Rockies Project. January 2017. Available: <https://www.coloradocollege.edu/stateoftherockies/conservationinthewest/>

## **Telling the Stories of All Americans**

In accordance with our congressional charter, the National Trust works to engage the public and support monument designations that tell the stories of all Americans. Most recently, the National Trust was proud to partner with the City of Birmingham and local groups to facilitate creation of the Birmingham Civil Rights National Monument centered on the A.G. Gaston Motel, which was built as the first modern hotel accommodation for African Americans in Alabama. It also served as headquarters for planning key events of the Civil Rights movement. We also worked extensively with tribes, local partners, elected officials and others toward the 2012 designation of the Chimney Rock National Monument in Colorado, recognizing the cultural and archaeological significance of this Ancestral Pueblo site and its continued significance to modern descendent tribes. These and other recent designations—such as the Harriet Tubman Underground Railroad National Monument in Maryland, the Belmont-Paul Women’s Equality National Monument in Washington D.C., the Stonewall National Monument in New York, the César E. Chávez National Monument in California, and Fort Monroe National Monument in Virginia—ensure the stories of all Americans are included in our nation’s monuments and parks.

All of these monuments are important, but I want to focus specifically on the recently designated Bears Ears National Monument, which is the subject of the initial 45-day review by the Department of the Interior.

Bears Ears encompasses one of the most significant cultural landscapes in the United States. Tens of thousands of cultural and archaeological sites—many of which are sacred to tribal communities across the region—tell the diverse stories of 12,000 years of human habitation. The 1.35 million acres of existing public lands managed by the Bureau of Land Management and United States Forest Service contain Ice Age hunting camps, cliff dwellings, prehistoric villages, and petroglyph and pictograph panels that show an enduring connection of people to this land. The land contains important food, firewood, and medicinal resources for the Hopi, Navajo, Uintah & Ouray Ute, Ute Mountain Ute, and Zuni peoples, whose leaders formed an Inter-Tribal Coalition to advocate for federally protected status and are now formally involved in management of the Monument. Because of the significance of the area and the threats to its cultural resources, the National Trust named the Bears Ears landscape a National Treasure in 2013 and listed it among America’s 11 Most Endangered Historic Places in 2016.

Efforts to protect the Bears Ears landscape can be traced back over 80 years. The National Trust’s specific engagement began in 2007, working with the late Senator Robert Bennett (R-Utah) on public lands legislation to protect cultural resources in southeast Utah, kicking off nearly a decade of work with the Utah delegation to craft legislation that could be signed into law. We worked diligently with Chairman Bishop and Representative Jason Chaffetz—as did many other stakeholders—throughout their multi-year Public Lands Initiative process. We submitted extensive comments on draft legislation in February 2016. Our comments expressed the need to secure the bipartisan support necessary to be signed into law. Ultimately, the legislation that was introduced failed to meet that standard. I outlined the National Trust’s concerns in testimony for a July 2016 field hearing, as well as in testimony for a hearing held by this Subcommittee on September 14, 2016.<sup>7</sup> Because of the pressing need for protections and the lack of a path forward for congressional legislation, the National Trust joined tribes, local and national groups, and many others calling for the President to designate the area a national monument. We celebrated when that designation was finally made.

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<sup>7</sup> Testimony of Stephanie K. Meeks, President and CEO, National Trust. House Natural Resources Committee Subcommittee on Federal Lands Legislative Hearing on H.R. 5780 “Utah Public Lands Initiative Act.” September 14, 2016. Available: [http://forum.savingplaces.org/viewdocument/national\\_trust\\_testimony\\_utah\\_publ](http://forum.savingplaces.org/viewdocument/national_trust_testimony_utah_publ).

Returning to the question of monument size and the scope of the Antiquities Act, the National Trust believes that the boundaries of the Bears Ears National Monument reflect the smallest area compatible with proper care and management of the objects outlined for protection in the presidential proclamation. In fact, the boundaries track more closely with conservation area protections proposed in the Public Lands Initiative than those initially proposed by the tribes and supported by the National Trust. We would welcome a conversation about protecting additional cultural resources in the area.

Far from a “midnight monument” with no public input, Bears Ears National Monument reflects a years-long discussion with tribes, local communities, the State of Utah, congressional representatives, and the American public, including public meetings on the ground in Utah. Unanimity on management of our public lands rarely exists. This monument designation was the result of an inclusive process that thoroughly considered the cultural resource to be protected and recognized continued threats of looting, vandalism and inappropriate development. This is precisely how the Antiquities Act was intended to be used.

## **Conclusion**

I would like to leave this Committee with a reminder of the story of the Grand Tetons. In 1943 President Franklin Roosevelt designated the Jackson Hole National Monument to protect roughly 210,000 acres adjacent to Grand Teton National Park. Though some local business owners, ranchers and others worked for years to expand the park and protect the Jackson Hole Valley from development, President Roosevelt’s monument designation was highly controversial.

Famously, the state of Wyoming fought the Jackson Hole National Monument tooth and nail, including unsuccessfully challenging the monument designation in court. Eventually public sentiment turned as the tourism economy grew, and compromise legislation in 1950 added the national monument to the existing 96,000-acre Grand Teton National Park. Notably, the legislation also stipulated that any future monument designation in the state of Wyoming requires congressional authorization.

The late Senator Cliff Hansen (R-WY) helped lead local opposition to the Jackson Hole National Monument as a county commissioner and local cattle rancher, but would later come to regret his position. “I want you all to know that I’m glad I lost, because I now know I was wrong. Grand Teton National Park is one of the greatest natural heritages of Wyoming and the nation and one of our great assets,” he said at a luncheon in New York in 1967.

Today, Grand Teton National Park is one of the jewels of the National Park System and an economic driver in the region, with more than 4.6 million visitors in 2015 spending an estimated \$560 million in gateway communities. We are confident that future generations will similarly embrace President Obama’s designation of the Bears Ears National Monument.

As this Committee exercises its oversight of the Administration’s Executive Order on Reviewing Monument Designations and considers future legislation relating to the Antiquities Act, I encourage you to reflect on the long history of this foundational preservation law and the legacy it leaves for future generations. Quite the opposite of locking up land, the Antiquities Act ensures that the American people have access to the landscapes and cultural resources that tell the stories of our shared heritage now and for generations to come.

