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## NATIONAL MONUMENTS

### Critics of Antiquities Act smell opportunity

Jennifer Yachnin, E&E News reporter

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Visitors sit on a boulder in Wassataquoik Stream within Maine's Katahdin Woods and Waters National Monument. Lawmakers yesterday heard testimony from Maine Gov. Paul LePage (R), who has lambasted the 88,000-acre monument's creation. Photo courtesy of Ellitsville Plantation Inc.

While the battle over the future of national monuments has centered heavily on a pair of sites in southern Utah, House lawmakers yesterday turned their attention to the east — focusing on the Katahdin Woods and Waters National Monument in Maine — as they addressed potential reforms to the Antiquities Act.

Members of the House Natural Resources Subcommittee on Federal Lands spent more than two hours yesterday sparring over the 1906 law that allows presidents to designate federal lands for protection based on their historical, cultural or scientific importance.

The nation's chief executives have utilized that law more than 150 times since its creation, including President Obama's designation of the 88,000-acre monument in Maine last year.

But now longtime critics of the law see potential in a GOP-controlled Congress to implement new limitations on the law, such as prohibitions on how much acreage may be set aside in a single monument or new requirements mandating the approval of state or local lawmakers.

"The Constitution gives to Congress alone the jurisdiction over public lands," subcommittee Chairman Tom McClintock (R-Calif.) noted in his opening remarks, adding that recent designations

by Obama and other presidents represent a "mockery of the clear intention of Congress" in creating the act 110 years ago.

McClintock, joined by committee Chairman Rob Bishop (R-Utah), said that Congress must restore "public access," "proper management" and the "federal government as a good neighbor" on its public lands.

"These designations were often imposed in spite of local opposition, without consultation with Congress or the state or local governments affected and without regard to the economic damage these designations have had to the surrounding communities," McClintock said.

While Bishop has been an outspoken advocate of rolling back both the Bears Ears National Monument created by Obama and the Grand Staircase-Escalante National Monument created by President Clinton, much of yesterday's hearing centered on the future of the Katahdin monument.

Maine Gov. Paul LePage (R) pointed to local opposition to the monument, including a narrowly approved resolution from the Maine Legislature last spring.

"The designation of this monument on former working forest by former President Obama is very concerning to Maine residents living in the area and around the state," LePage said.

Land included in the monument was actually purchased by Burt's Bees owner Roxanne Quimby and donated to the federal government via her family's nonprofit foundation, Elliotsville Plantation Inc.

But LePage has urged Interior Secretary Ryan Zinke to review the national monument's status as part of an ongoing process to assess whether to reduce or rescind such sites nationwide.

President Trump issued an executive order last month mandating an automatic review for all monuments created since 1996 that exceed 100,000 acres or for those that Zinke deems did not include sufficient "public input" prior to their designation.

Elliotsville Plantation President Lucas St. Clair, who is Quimby's son, told the *Portland Press Herald* last week that he is not "particularly concerned" about the potential review.

During yesterday's hearing, St. Clair likewise highlighted public hearings held by former Park Service Director Jonathan Jarvis, as well as a House Natural Resources Committee field hearing and a town hall organized by Maine Rep. Bruce Poliquin (R).

"The work to create a national monument began many years ago," St. Clair testified, noting his family purchased the former forestland at market value. "There were public debates and an open and honest conversation."

While public support for the site was initially low when his family began pursuing a national park in 2011, St. Clair said that private polling done by the foundation shows a marked turnaround in the years since.

"The voice of the people was heard," St. Clair said, referring to provisions to allow continued hunting and snowmobiling on the land included in the monument. He also noted the size of the site will diminish from its initial size of 150,000 acres.

Throughout the hearing, LePage and St. Clair indirectly sparred over whether access to the land has increased or decreased, as well as whether a \$40 million endowment sponsored by St. Clair's foundation would sufficiently fund the site.

Republican and Democratic lawmakers likewise scuffled over whether the Maine monument and others like it did in fact increase usage of public lands, or if prohibitions on activities or roads decreased usage. Lawmakers also divided along party lines over whether monuments improve local economies and spur job growth, or choke off potential energy-related jobs like mining and create only lower-paying seasonal work.

Utah Public Lands Coordinating Office Director Kathleen Clarke, who served as BLM director during the George W. Bush administration, also testified against the Antiquities Act, saying that in the case of large monuments like Bears Ears — which totals 1.35 million acres — "the burdens outweigh the benefits."

"The creation of these huge monuments has unnecessarily had significant and negative impact on traditional uses of these lands," Clarke added, while also criticizing the Grand Staircase-Escalante monument in particular for blocking the mining of coal in that area.

She also said that designating the monuments can in some ways be counterintuitive to efforts to protect cultural relics: "Greater access to antiquities sites leads to greater, not less, destruction."

### **'Our national monuments are popular'**

Arizona Rep. Raúl Grijalva (D), who is in favor of maintaining the Antiquities Act, pressed Clarke over the issue of whether Trump can repeal monuments designated by his predecessors.

While former commanders in chief have reduced the size of monuments, no president has ever sought to undo a monument created in prior administrations.

Conservationists have suggested that Trump would face legal challenges if he attempted to make any changes — whether reductions to boundaries or wholesale revocations — arguing that the Antiquities Act does not include that authority.

Clarke demurred when asked for her opinion, stating: "That notion has not been challenged in court, so I am not going to opine as to whether he has that authority or not."

But Hawaii Rep. Colleen Hanabusa, the subcommittee's ranking Democrat, warned that such efforts would face legal challenges, as well as potential social protests.

"Any executive action to abolish existing monuments will be met with significant opposition from the American people, similar to many of the president's signature efforts from the first 100 days of this

administration," Hanabusa said.

Hanabusa went on to note that while Congress has the authority to undo monuments or alter boundaries, it has rarely opted to do so. While Congress has converted numerous monuments to national parks, it has abolished fewer than a dozen monuments created by presidents.

"Even in the current political landscape, efforts to repeal or modify existing monuments may have a difficult time getting across the finish line. After all, our national monuments are popular and will not go down without a fight," she added.

But Rep. Paul Gosar (R-Ariz.) later disputed the notion that the president cannot take action on the monuments, stating: "One executive order can trump another one. It just hasn't been done."

Regardless, House Republicans do plan to pursue legislation altering the Antiquities Act itself. Idaho Rep. Raúl Labrador announced he will reintroduce legislation to require state governments to approve new monuments.

### **Zinke meets with Utah officials on Bears Ears**

Although much of the hearing focused on the new Maine monument, Bishop took advantage of his opening remarks to focus on the Bears Ears site in southeastern Utah.

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House Natural Resources Chairman Rob Bishop (R-Utah) slammed the new Bears Ears National Monument during a hearing yesterday. Photo courtesy of the House Natural Resources Committee via YouTube.

In particular, he railed against what he called the "misrepresentations" of Native American tribes that live in San Juan County, Utah, where the monument is located.

"Never in my years of Congress have I seen such a concerted effort to suppress the voices of local tribes by such powerful, deep-pocketed opponents," Bishop said. "No local tribe, no local tribe in San Juan County, Utah, where the national monument is located, supported this designation. But most do not know this, because it is barely reported."

Bishop pointed to opposition from San Juan County Commissioner Rebecca Benally, a member of the Navajo tribe; Ute Mountain Ute member Suzette Morris; as well as the Aneth Chapter of Navajo, which is based in Utah and includes San Juan County.

He highlighted concerns that the monument designation could impede access to ceremonies and sacred places, as well as activities like gathering herbs and firewood and hunting.

"It's about time those voices were actually heard," Bishop said.

San Juan County commissioners, including Benally as well as Phil Lyman and Bruce Adams, did meet with Zinke in Washington, D.C., yesterday.

An Interior Department spokeswoman did not respond to a request for comment on the meeting, but according to the *San Juan Record* newspaper, Zinke told the local officials he wanted to address the Bears Ears monument.

"He was very attentive for the hour we spent with him. He said he wanted to fix the problems in the past, stay within the law and see that land is managed for multiple use," Adams told the newspaper.

Under the executive order, Zinke will have 45 days to issue an interim report on his recommendations for Bears Ears and must then issue a full report after 120 days, which will occur in late August.

"We want the 45-day review to be a chance to fulfill the executive order. We will encourage him to do his job," Adams said.

But the Center for Western Priorities criticized Zinke for meeting with the trio yesterday, noting that the secretary has yet to discuss the land with the Bears Ears Inter-Tribal Coalition.

The coalition issued a letter to Zinke last week renewing its request for a meeting.

"Our letters to your office from each of our Tribal nations, the Bears Ears Inter-Tribal Coalition, and the Bears Ears Commission requesting meetings with you have gone unanswered," the group stated. "It seems illogical that letters sent nearly 100 days ago have not been answered, yet there will be review of Bears Ears within the next 45 days."

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On Tue, May 2, 2017 at 6:58 PM, Ralston, Jill <[jralston@blm.gov](mailto:jralston@blm.gov)> wrote:

FYI - On May 2, the House Natural Resources Subcommittee on Federal Lands held an oversight hearing titled "Consequences of Executive Branch Overreach of the Antiquities Act." Members in attendance included Chairman McClintock (R-CA-4), Ranking Member Hanabusa (D-HI-1), and Reps. LaMalfa (R-CA-1), Westerman (R-AR-4), Pearce (R-NM-2), Gosar (R-AZ-4), Tipton (R-CO-3), Thompson (R-PA-5), Labrador (R-ID-1), Beyer (D-VA-8), Tsongas (D-MA-5), Huffman (D-CA-2), Torres (D-CA-35), Panetta (D-CA-20), and Brown (D-MD-4). Also in attendance were full committee Chairman Bishop (R-UT-1) and full committee Ranking Member Grijalva (D-AZ-3).

The hearing lasted for nearly two and a half hours and included a single witness panel, which consisted of Maine Governor Paul LePage; Kathleen Clarke, Director of the Utah Public Lands Coordinating Office; Lucas St. Clair, Board Member for the Quimby Family Foundation; and Knox Marshall, Vice President of Resources for Murphy Timber Investments LLC.

In his opening statement, Chairman McClintock said that National Monuments designated under the Antiquities Act have had significant impacts to local communities and businesses, causing job losses, restricting hunting, fishing, and public access, and impeding wildland fire prevention and response. In contrast, Ranking Member Hanabusa stated that National Monuments are broadly popular with the American public, with nearly 80 percent of western voters support keeping existing monument boundaries, and that they are significant contributors to the billion-dollar recreation economy. Members of the majority were critical of the public outreach undertaken in advance past National Monument designations and indicated that they harmed local businesses, particularly those associated with coal and other conventional energy development and off-highway vehicle recreation. Members of the minority highlighted positive economic benefits associated with National Monuments and several noted that popular National Parks in their districts were initially protected through designation under the Antiquities Act. During questions and answers, the following six BLM-managed monuments were specifically discussed: Bears Ears, Grand Staircase-Escalante, Cascade-Siskiyou, Organ Mountains-Desert Peaks, Fort Ord, and California Coastal.

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