

Conversation Contents

Listening Session Transcript

Attachments:

/22. Listening Session Transcript/2.1 Phoenix, AZ 06-01-17.pdf

"Mahoney, Kenneth" <kmahoney@blm.gov>

From: "Mahoney, Kenneth" <kmahoney@blm.gov>
Sent: Tue Jun 13 2017 14:48:43 GMT-0600 (MDT)
To: Miles Janssen <miles.janssen@bia.gov>
Subject: Listening Session Transcript

Greetings,

I saw the press release that Secretary Zinke submitted the interim report on Bears Ears National Monument to the President. I'm wondering whether you know when the transcript from the tribal listening session on national monument review in Phoenix will be prepared and posted. I have looked on the Regulations.gov web site and the transcript doesn't appear to be posted there yet. Has the transcript perhaps been posted to somewhere else on the web?

Thank you for any information you may have regarding the availability of the listening session transcript.

Ken Mahoney <> Program Lead:
National Monuments <> National Conservation Areas
Wilderness <> Wild & Scenic Rivers
Arizona State Office <> Bureau of Land Management
602-417-9238 <> kmahoney@blm.gov

"Janssen, Miles" <miles.janssen@bia.gov>

From: "Janssen, Miles" <miles.janssen@bia.gov>
Sent: Mon Jun 26 2017 08:57:00 GMT-0600 (MDT)
To: kmahoney@blm.gov
Subject: Fwd: Listening Session Transcript
Attachments: Phoenix, AZ 06-01-17.pdf

Ken,

Here a copy of the transcript. It will also be posted on BIA's website.

Thanks,

Miles

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

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

Date: Fri, Jun 23, 2017 at 8:54 AM

Subject: Re: Listening Session Transcript

To: "Janssen, Miles" <miles.janssen@bia.gov>

Hi Miles-

The Office of Public Affairs in the process of getting it posted to www.bia.gov, but here is the Phoenix transcript in the meantime if you want to forward it.

Thanks!

Liz

On Thu, Jun 22, 2017 at 7:37 PM, Janssen, Miles <miles.janssen@bia.gov> wrote:

Do you know when this will be posted?

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

From: **Mahoney, Kenneth** <kmahoney@blm.gov>

Date: Tue, Jun 13, 2017 at 4:48 PM

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To: Miles Janssen <miles.janssen@bia.gov>

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"Mahoney, Kenneth" <kmahoney@blm.gov>

From: "Mahoney, Kenneth" <kmahoney@blm.gov>
Sent: Tue Jun 27 2017 12:00:50 GMT-0600 (MDT)
To: "Janssen, Miles" <miles.janssen@bia.gov>
Subject: Re: Listening Session Transcript

Thank you very much for sending it to me.

Ken

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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

RRF Number R1031

2415 East Camelback Road

Suite 700

Phoenix, Arizona 85016

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.

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.

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

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,

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

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,

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

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

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.

17 * * * * *

1 BE IT KNOWN that the foregoing proceedings were
2 taken before me; that the foregoing pages are a full, true
3 and accurate record of the proceedings, all done to the
4 best of my skill and ability; that the proceedings were
5 taken down by me in shorthand and thereafter reduced to
6 print under my direction.

7
8 I CERTIFY that I have complied with the ethical
9 obligations set forth in ACJA 7-206(F)(3) and ACJA 7-206
10 J(1)(g)(1) and (2). Dated at Glendale, Arizona, this 12th
11 day of June, 2017.

12
13
14 _____
KIMBERLY PORTIK, RPR, CRR
15 Certified Reporter
Arizona CR No. 50149

16
17 * * * * *

18 I CERTIFY that Canyon State Reporting Services, LLC,
19 has complied with the ethical obligations set forth in
20 ACJA 7-206 (J)(1)(g)(1) through (6).

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