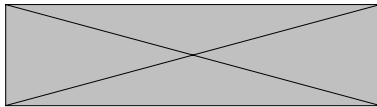


**To:** Chris new McAlear (b)(6)  
**From:** McAlear, Christopher  
**Sent:** 2017-12-06T07:39:31-05:00  
**Importance:** Normal  
**Received:** 2017-12-06T07:39:40-05:00  
[revised final report.pdf](#)

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THE SECRETARY OF THE INTERIOR  
WASHINGTON

**MEMORANDUM FOR THE PRESIDENT**

FROM: RYAN K. ZINKE

SUBJECT: Final Report Summarizing Findings of the Review of Designations Under the Antiquities Act

**Executive Summary and Impressions of the Secretary of the Interior Ryan Zinke**

In 1906, Congress delegated to the President the power to designate a monument under the Antiquities Act (Act). The Act authorizes the President singular authority to designate national monuments without public comment, environmental review, or further consent of Congress. Given this extraordinary executive power, Congress wisely placed limits on the President by defining the objects that may be included within a monument as being "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest," by restricting the authority to Federal lands, and by limiting the size of the monument to "the smallest area compatible with proper care and management of the objects." Congress retained its authority to make land-use designations without such limitations. Even with the restrictive language, use of the Act has not always been without controversy. In fact, even Theodore Roosevelt's first proclamation of the roughly 1,200-acre Devil's Tower in Wyoming was controversial. Since that time, the use of the Act has largely been viewed as an overwhelming American success story and today includes almost 200 of America's greatest treasures.

More recently, however, the Act's executive authority is under scrutiny as Administrations have expanded both the size and scope of monument designations. Since 1996 alone, the Act has been used by the President 26 times to create monuments that are over 100,000 acres or more in size and have included private property within the identified external boundaries. While early monument designations focused more on geological formations, archaeological ruins, and areas of historical interest, a more recent and broad interpretation of what constitutes an "object of historic or scientific interest" has been extended to include landscape areas, biodiversity, and viewsheds. Moreover, features such as World War II desert bombing craters and remoteness have been included in justifying proclamations.

The responsibility of protecting America's public lands and unique antiquities should not be taken lightly; nor should the authority and the power granted to a President under the Act. No President should use the authority under the Act to restrict public access, prevent hunting and fishing, burden private land, or eliminate traditional land uses, unless such action is needed to protect the objects. It is Congress, and not the President, that has the authority to make protective land designations outside of the narrow scope of the Act, and only Congress retains the authority to enact designations such as national parks, wilderness, and national conservation

and recreation areas. The Executive power under the Act is not a substitute for a lack of congressional action on protective land designations.

You were correct in tasking me to review and provide recommendations of all monuments that were designated from 1996 to the present that are 1) 100,000 acres or greater in size or 2) were made without adequate public consultation. This is far from the first time an examination of scope of monuments has been conducted. Existing monuments have been modified by successive Presidents in the past, including 18 reductions in the size of monuments, and there is no doubt that you have the authority to review and consider recommendations to modify or add to a monument.

The methodology used for the review consisted of three steps. The first step was to gather the facts which included the examination of existing proclamations, object(s) to be protected, segregation of the object(s) (if practical) to meet the “smallest area compatible” requirement, the scientific and rational basis for the boundaries, land uses within the monument, public access concerns, authorized traditional uses, and appropriate environmental and cultural protections. As directed by you, the second step was to ensure that the local voice was heard by holding meetings with local, state, tribal, and other elected officials; non-profit groups; and other stakeholders, as well as providing an online format for public comment. The final step was to review policies on public access, hunting and fishing rights, traditional use such as timber production and grazing, economic and environmental impacts, and potential legal conflicts, and to provide a report to you no later than August 24, 2017.

The review found that each monument was unique in terms of the object(s) used for justification, proclamation language, history, management plans, economic impact, and local support. Adherence to the Act’s definition of an “object” and “smallest area compatible” clause on some monuments were either arbitrary or likely politically motivated or boundaries could not be supported by science or reasons of practical resource management. Despite the apparent lack of adherence to the purpose of the Act, some monuments reflect a long public debate process and are largely settled and strongly supported by the local community. Other monuments remain controversial and contain significant private property within the identified external boundary or overlap with other Federal land designations such as national forests, Wilderness Study Areas (WSA), and lands specifically set aside by Congress for permanent forest production.

Public comments can be divided into two principal groups. Proponents tended to promote monument designation as a mechanism to prevent the sale or transfer of public land. This narrative is false and has no basis in fact. Public lands within a monument are federally owned and managed regardless of monument designation under the Act. Proponents also point to the economic benefits from increased tourism from monument recognition. On this point, monument status has a potential economic benefit of increased visitation, particularly to service related industries, outdoor recreation industries, and other businesses dependent or supported by tourism. Increased visitation also places an additional burden and responsibility on the Federal Government to provide additional resources and manpower to maintain these lands to better support increased visitation and recreational activities.

Comments received were overwhelmingly in favor of maintaining existing monuments and demonstrated a well-orchestrated national campaign organized by multiple organizations. Opponents of monuments primarily supported rescinding or modifying the existing monuments to protect traditional multiple use, and those most concerned were often local residents associated with industries such as grazing, timber production, mining, hunting and fishing, and motorized recreation. Opponents point to other cases where monument designation has resulted in reduced public access, road closures, hunting and fishing restrictions, multiple and confusing management plans, reduced grazing allotments and timber production, and pressure applied to private landowners to sell their land encompassed by or adjacent to a monument.

## **I. Introduction and Purpose**

As described more fully below, Executive Order 13792, “Presidential Executive Order on the Review of Designations Under the Antiquities Act,” dated April 26, 2017, (Order or EO 13792) directed me to conduct a review of certain Presidential designations made under the Act, to determine if the designations conform to the policies set forth in the Order. The Order further instructed me to provide two reports summarizing this review:

- a. an Interim Report under section 2(d), due within 45 days, addressing the Bears Ears National Monument established by Proclamation No. 9558, dated December 28, 2016, and “other such designations as the Secretary determines to be appropriate for inclusion”; and
- b. a Final Report under section 2(e), due within 120 days, summarizing the findings of the review for all other monument designations covered by the Order.

The Order also requested that I include in both reports recommendations for “Presidential actions, legislative proposals, or other actions consistent with law” to conform designations to the policy set forth in the Order.

This Memorandum constitutes the Final Report under section 2(e) of the Order and addresses the findings of the review of certain Presidential designations made under the Act.

## **II. Background**

### *A. The Antiquities Act*

Passed in 1906, the Act, now codified at 54 U.S.C. 320301-320303, reflected a nearly decade-long effort by Congress, the Department of the Interior, and members of the archeological community to protect antiquities from looting and desecration. The Act authorizes the President to “declare by public proclamation historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest that are situated on land owned or controlled by the Federal Government to be national monuments.” 54 U.S.C. 320301(a). The Act states that the President *may* reserve parcels of Federal land as part of such monument, but if so the President *shall* limit those reservations to “*the smallest area compatible with the proper care and management of the objects to be protected.*” 54 U.S.C. 320301(b). (Emphasis added.)

The Act also originally criminalized efforts to “appropriate, excavate, injure, or destroy any historic or prehistoric ruin or monument, or any object of antiquity, situated on lands owned or controlled by the Government of the United States” without permission.

The Act has been used to designate or expand national monuments on Federal lands more than 150 times. It has also been used at least 18 times by Presidents to reduce the size of 16 national monuments, including 3 reductions of the Mount Olympus National Monument by Presidents Taft, Wilson, and Coolidge that cumulatively reduced the size of the 639,200-acre Monument by a total of approximately 314,080 acres, and a reduction of the Navajo National Monument by President Taft from its original 360 acres to 40 acres. President Franklin Roosevelt also modified the reservation of the Katmai National Monument to change management of the Monument.

*B. Executive Order 13792*

You issued Executive Order 13792 on April 26, 2017. Consistent with the concerns noted above, section 1 of the Order states:

Designations of national monuments under the [Antiquities Act], have a substantial impact on the management of Federal lands and the use and enjoyment of neighboring lands. Such designations are a means of stewarding America's natural resources, protecting America's natural beauty, and preserving America's historic places. Monument designations that result from a lack of public outreach and proper coordination with State, tribal, and local officials and other relevant stakeholders may also create barriers to achieving energy independence, restrict public access to and use of Federal lands, burden State, tribal, and local governments, and otherwise curtail economic growth. Designations should be made in accordance with the requirements and original objectives of the Act and appropriately balance the protection of landmarks, structures, and objects against the appropriate use of Federal lands and the effects on surrounding lands and communities.

The Order required me to review all designations or expansions resulting in a designation covering more than 100,000 acres or any other designations that he determines were “made without adequate public outreach and coordination with relevant stakeholders” to determine whether it conforms to the policy set forth in section 1. The Order listed several factors for me to consider when making that determination:

- (1) the requirements and original objectives of the Act, including the Act’s requirement that reservations of land not exceed “...the smallest area compatible with the proper care and management of the objects to be protected”;
- (2) whether designated lands are appropriately classified under the Act as “historic landmarks, historic and prehistoric structures, [or] other objects of historic or scientific interest”;
- (3) the effects of a designation on the available uses of designated Federal lands, including consideration of the multiple-use policy of section 102(a)(7) of the Federal Land Policy

and Management Act (FLPMA) (43 U.S.C. 1701(a)(7)), as well as the effects on the available uses of Federal lands beyond monument boundaries;

- (4) the effects of a designation on the use and enjoyment of non-Federal lands within or beyond monument boundaries;
- (5) concerns of state, tribal, and local governments affected by a designation, including the economic development and fiscal condition of affected states, tribes, and localities;
- (6) the availability of Federal resources to properly manage designated areas; and
- (7) such other factors as the Secretary deems appropriate.

As noted above, section 2 of the Order directs me to provide, within 120 days of the date of the Order, a Final Report including the results of the review and any resulting recommendations on monuments.

*C. Monuments Under Review*

<b>Monument</b>	<b>Location</b>	<b>Year</b>	<b>Federal Acreage (Est.)</b>
Basin and Range	Nevada	2015	703,585
Bears Ears	Utah	2016	1,353,000
Berryessa Snow Mountain	California	2015	330,780
Canyons of the Ancients	Colorado	2000	176,370
Carrizo Plain	California	2001	211,045
Cascade Siskiyou	Oregon	2000/2017	113,431
Craters of the Moon	Idaho	1924/2000	738,420
Giant Sequoia	California	2000	328,315
Gold Butte	Nevada	2016	296,937
Grand Canyon-Parashant	Arizona	2000	1,021,030
Grand Staircase-Escalante	Utah	1996	1,866,331
Hanford Reach	Washington	2000	194,450
Ironwood Forest	Arizona	2000	129,055
Katahdin Woods and Waters	Maine	2016	87,564
Mojave Trails	California	2016	1,600,000
Organ Mountains-Desert Peaks	New Mexico	2014	496,529
Rio Grande del Norte	New Mexico	2013	242,710
Sand to Snow	California	2016	154,000

San Gabriel Mountains	California	2014	346,177
Sonoran Desert	Arizona	2001	486,400
Upper Missouri River Breaks	Montana	2001	377,346
Vermilion Cliffs	Arizona	2000	279,566

#### *D. Marine Monuments Under Review*

The Department of Commerce (DOC) is undertaking a concurrent review process, under both Executive Order 13792 and Executive Order 13795, “Implementing an America-First Offshore Energy Strategy”, signed April 28, 2017. The DOC review includes both National Marine Sanctuaries and the five Marine Monuments under the Department of the Interior’s (DOI) review. The five marine monuments jointly reviewed are below.

<b>Monument</b>	<b>Location</b>	<b>Year</b>	<b>Federal Acreage (Est.)</b>
Marianas Trench	CNMI/Pacific Ocean	2009	61,077,668
Northeast Canyons and Seamounts	Atlantic Ocean	2016	3,144,320
Pacific Remote Islands	Pacific Ocean	2009	313,941,851
Papahānumokuākea	Hawaii	2006/2016	372,848,597
Rose Atoll	American Samoa	2009	8,609,045

#### *E. Review Process*

In an effort to make the review process transparent and give people a voice in that process, DOI announced on May 5, 2017, a formal comment period for the review. This was the first time regulations.gov has been used for a formal comment period associated with the Act. The review period closed on July 10, 2017. The DOI received approximately 2.8 million comments both electronically and by mail.

Since May, I personally visited eight national monument sites in six states. I held dozens of meetings with individuals and organizations, including tribal, local, and state government officials; local stakeholders; and advocates from conservation, agriculture, tourism, and historic preservation organizations.

### **III. Results**

#### *A. Broadly and Arbitrarily Defined “Objects”*

While there are many instances when the Act has been used for the proper stewardship of objects, I have concerns that modern uses of the Act do not clearly and consistently define the objects. Lending further to this concern is that there are other areas, not a part of a monument, which contain virtually identical objects. The West was inhabited by ancient cultures, the

remnants of which are well-preserved due to the West's arid climate, and can be found throughout the land. There is a legitimate question as to why only some of these resources were chosen as objects to protect under the Act, while others were not.

Throughout the review, I have seen examples of objects not clearly defined in the proclamations. Examples of such objects are geographic areas including viewsheds and ecosystems. Proper use of the Act should specifically identify the "historic landmarks, historic and prehistoric structures, and other objects of historic or scientific interest," and the quantity of land necessary to protect each object, if any.

However, prior Administrations appear, in some instances, to have designated monuments only after congressional efforts to develop broader land-management legislation stalled. As a result, some monument boundaries mirror the previously proposed legislative boundaries that were developed as part of proposed comprehensive land-management legislation, not pursuant to the Act. Congress has plenary discretion to further protect areas of public lands and make other areas available for economically productive uses. Given that these same considerations and balancing processes are not available under the Act, the use of these legislative boundaries as monuments boundaries appears to have circumvented the legislative process.

#### *B. Landscape Area Designations*

In the case of lands administered by the Bureau of Land Management (BLM), designating geographic landscape areas as objects of historic or scientific interest is especially problematic given that the determination of land uses is normally done under the vigorous public balancing processes pursuant to the Federal Land Policy and Management Act (FLPMA). When landscape areas are designated and reserved as part of a monument, objects and large tracts of land are overlain by a more restrictive management regime, which mandates protection of the objects identified. This has the effect of narrowing the range of uses and limiting BLM's multiple-use mission. As a result, absent specific assurances, traditional uses of the land such as grazing, timber production, mining, fishing, hunting, recreation, and other cultural uses are unnecessarily restricted. Such action especially harms rural communities in western states given that these towns have historically benefited and been economically sustained by grazing, mining, and timber production on nearby public lands.

The land management and planning challenges associated with monument designations can particularly be seen where monuments are designated over special management regimes already in place. For example, many of these monuments include WSAs. Pursuant to section 603 of FLPMA, WSAs are already managed so as not to impair the suitability of such areas for preservation as wilderness and, in some cases, can have stricter management requirements than those outlined in a proclamation of a monument. As WSAs may provide a higher level of protection, this raises a question as to whether a designation under the Act is even necessary.

#### *C. Traditional Uses Limited*

It appears that certain monuments may have been designated to prevent economic activity such as grazing, mining, and timber production rather than to protect specific objects. With regard to grazing, while it is uncommon for proclamations to prohibit grazing outright, restrictions



resulting from monument designations on activities such as vegetative management directly hinder livestock-grazing uses.

Restrictions on vegetative management or other maintenance activities have also led to poorly maintained roads, and even road closures. There are also cases where roads have intentionally been closed as part of management plans in order to protect objects, as it is often the case that monument designations can result in an increased threat of damage or looting of objects due to higher visitation. As a result, when developing transportation plans, Federal land managers have found the most efficient way to protect objects in monuments is to limit motorized vehicle access.

Therefore, public access is of great concern related to monument designations. Hunters, anglers, and recreationalists are at times prevented from visiting these lands. Disabled and elderly visitors who particularly rely on motorized transportation also have limited access. Further, some tribal members have raised concerns that their cultural practices such as wood and herb gathering are constrained by lack of access.

While the use of public land is of continuing concern, there is a perception by private inholders that their land is also encumbered by monument designations. The Act states that the President may only designate as monuments objects that “are situated on land owned or controlled by the Federal Government.” However, there is concern among private landowners that monument designations around their land have the potential to limit access to their land and economic activity outside of their lands.

Many stakeholders reported a perception that the goal of monument designations surrounding private land is for the eventual acquisition of these lands by the Federal Government to be made part of the monument. This process is often facilitated by third parties that purchase private land and then sell that land to the Federal Government

#### *D. Concerns of State, Tribal, and Local Governments*

Given that a significant portion of land in western states is owned by the Federal Government, the multiple-use approach to land management is essential for economic development. The DOI has certainly heard that monument designations bring increased tourism, and therefore revenue, to some local businesses, as well as jobs. Some of these monuments under review have resulted in this activity. However, in other instances these jobs, many of which are seasonal, and the revenues resulting from tourism, do not necessarily offset the lost or forgone employment and revenue resulting from the limitations placed on land development.

Local governments raised issues relating to lost jobs and revenue, especially when there has been a lack of meaningful consultation and public process before monuments are designated. Some of the reviewed monument designations were undertaken after public meetings. However, these meetings were not always adequately noticed to all stakeholders and instead were filled with advocates organized by non-governmental organizations (NGOs) to promote monument designations. (It is worth noting that this dynamic is similarly reflected in the public comment process for this review. The DOI received approximately 2.6 million form comments associated with NGO-organized campaigns, which far outnumbered individual comments.)

Too often, it is the local stakeholders who lack the organization, funding, and institutional support to compete with well-funded national NGOs. As a result, the public consultation processes that have occurred prior to monument designations have often not adequately accounted for local voices. This is concerning, as these are the communities and stakeholders affected the most by the land-use restrictions associated with these designations. Indeed, state legislatures in both Utah and Arizona have considered or passed resolutions or legislation asking for modifications either to existing monuments or to the Antiquities Act itself, often citing a lack of proper public process.

Like state governments, tribes are also concerned about consultation, and many are interested in exploring a more meaningful role in managing designations that encompass sacred or culturally significant tribal lands. In the case of the Bears Ears National Monument (BENM), the Inter-Tribal Coalition had asked for true co-management of BENM. However, such authority is not available to the President; it must be granted by Congress. The BENM proclamation established an advisory commission for the Tribal Coalition to make non-binding recommendations. I recommended in the Interim Report of June 10, 2017, that you request congressional authority to enable tribal co-management of designated areas within the revised BENM boundaries.

Several tribes also expressed concern about access to and protection of sacred sites. Access is particularly important to continue traditional cultural practices on these sites. For example, as mentioned above, closed roads prevent wood gathering to be undertaken with motorized vehicles. Further, tribes have expressed concern that publicity and attention to sacred sites attracts more visitors and imperils the integrity and safety of these sites.

#### *E. Enforcement and Protection Concerns*

Monuments that are hundreds of thousands of acres and above bring significant management challenges. The requirement that an area be designated as “the smallest area compatible with the proper care and management of the objects to be protected” is a limitation as much about practicality of protection as it is about preventing reservations that are too large and that might unnecessarily prohibit or restrict other land uses. As noted above, there is concern that monument designations can draw attention to special areas and that increased visitation can threaten the objects. In simple terms, monuments that span up to a million acres or more are difficult to protect and therefore undermine the intent of the Act.

The agencies charged with enforcement rarely receive increased funding following a proclamation. Therefore, these designations may fail to provide more protection for the objects than applicable land-management authorities already in place.

### **IV. Recommendations**

#### *A. Monument Modifications*

I recommend that you exercise your discretion to modify certain existing proclamations and boundaries. In doing so, each proclamation would continue to identify particular objects or sites of historic or scientific interest and recite grounds for the designation thereby comporting with

the Act's policies and requirements. However, this can be done in a manner that prioritizes public access, infrastructure, traditional use, tribal cultural use, and hunting and fishing rights. These recommendations have been submitted to you with the concurrence of the Secretary of Agriculture and the Secretary of Commerce. These recommended modifications are intended to ensure that the monuments meet the purposes of the Act, including that the area reserved be limited to the smallest area compatible with protection of the relevant objects.

### **Bears Ears**

- The BENM was established by Presidential Proclamation No. 9558, dated December 28, 2016. It consists of 1,353,000 acres of Federal land in San Juan County, Utah, and is jointly managed by BLM (1.063 million acres) and the U.S. Forest Service (USFS) (290,000 acres).
- The BENM contains cultural and archeological sites, unique geologic features, and areas important to the practicing of tribal cultural traditions and ceremonies. It also contains many objects that are common or otherwise not of particular scientific or historic interest.
- In the 114<sup>th</sup> Congress, legislation was introduced that designates specified Federal lands as wilderness and as components of the National Wilderness Preservation System. The total boundary encompassing these land actions largely tracks with the boundaries of BENM.
- Portions of the area are also home to significant recreational opportunities, including hiking, backpacking, canyoneering, mountain biking, and rock climbing.
- Within and adjacent to the BENM boundaries, numerous management authorities and plans govern the patchwork of Federal, State of Utah, and private lands. This includes 11 BLM WSAs aggregating approximately 381,000 acres, as well as a 46,353-acre Wilderness on USFS lands.
- When accounting for State land and private land within the boundaries of BENM, the total area encompassed is close to 1,500,000 acres.

### *Recommendations:*

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The boundary should be revised through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to continue to protect objects and ensure the size of the monument reservation is limited to the smallest area compatible with the protection of the objects identified.
- You should request congressional authority to enable tribal co-management of designated cultural areas within the revised BENM boundaries.
- Congress should make more appropriate conservation designations, such as national recreation areas or national conservation areas, within the current BENM.

- The management plan should be developed to continue to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needed to protect objects effectively.

### **Cascade-Siskiyou**

- Cascade-Siskiyou National Monument (CSNM) was established by Presidential Proclamation No. 7318 on June 9, 2000, originally consisting of approximately 52,000 acres. It was expanded by almost 48,000 acres through Presidential Proclamation No. 9564 on January 12, 2017.
- The CSNM is located in Jackson and Klamath Counties, Oregon, and Siskiyou County, California, and is managed by the BLM.
- The original 2000 designation was the first monument to protect biodiversity. The expansion purported to create a necessary “buffer” to support the biodiversity objects outlined in the original CSNM.
- In 2015, legislation was introduced that would have protected most of the areas in the monument expansion through conservation and recreation designations.
- The CSNM contains within its borders a 24,707-acre Wilderness Area designated by Congress in the 2009 Omnibus Public Lands Management Act.
- The Wilderness Area was expanded to its current size in 2010 with the acquisition of two privately owned inholdings.
- Encompassed within the exterior boundary of the original CSNM is 19,818 acres of private land (23.2%), and within the boundary of the expansion is 32,677 private acres (38.3%), for a total of approximately 52,485 acres of privately owned lands. This is 30% of the total area within the external boundaries of the CSNM.
- A substantial number of acres within both the original monument and the expansion area are designated as Oregon and California Revested (O&C) Railroad Lands, which are lands statutorily set aside for permanent forest production under the Oregon and California Revested Lands Sustained Yield Management Act of 1937 (O&C Act).
- In light of the direction in the O&C Act, commenters raised concerns about the legal authority to establish a national monument on O&C lands.
- The 2000 CSNM monument designation required a study to assess the compatibility of grazing with the biodiversity of the area and the subsequent study found threats to riparian objects. As a result, grazing has largely diminished in the original CSNM area. Many allotments were bought out as a result of a larger land package deal in the 2009 Omnibus Public Lands Management Act.
- Motorized transportation off of roads was prohibited in the original CSNM designation. The expansion area only allows for motorized transportation off of roads in limited circumstances and only after a transportation-management plan is completed. To date, the plan has not been initiated. Due to poor maintenance, remaining usable roads in CSNM are often unsuitable for use.

*Recommendations:*

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The boundary should be revised through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, in order to address impacts on private lands and to address issues concerning the designation and reservation of O&C Lands as part of the monument and the impacts on commercial timber production.
- The monument management plan should be revised to continue to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

**Gold Butte**

- The Gold Butte National Monument (GBNM) was established by Presidential Proclamation No. 9559 on December 28, 2016, and consists of 296,937 acres managed by BLM and the Bureau of Reclamation in Clark County, Nevada.
- The resources identified in the Proclamation include the biologic, archaeologic, and areas of spiritual significance to American Indian tribes.
- There have been multiple legislative attempts to designate this area under protective land designations, beginning in 2008 and concluding in 2015, which were unsuccessful.
- Lands within GBNM are managed with some level of a protective designation, either under the existing land-use plan or as designated Wilderness (28,787 acres) or Wilderness Study Areas (28,454 acres). The GBNM is also overlapped by Areas of Critical Environmental Concern designated by BLM.
- The local water district has historic water rights for six springs and provides water for the City of Mesquite. Five of the six water district springs are located within the boundaries of GBNM.
- The GBNM Proclamation inaccurately states that livestock has not been permitted in the GBNM area since 1998 and therefore prevents issuing any new grazing permits or leases. In fact, there are four active grazing allotments administered by the Arizona Strip District, either fully or partially contained within GBNM, which have been authorized since 1998.

*Recommendations:*

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the

provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights. The proclamation should also be amended to address inaccuracies related to active grazing allotments.

- The boundary should be revised through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure that the monument reservation is limited to the smallest area compatible with the protection of the objects identified and protect historic water rights.
- You should request congressional authority to enable tribal co-management of designated cultural areas within the revised GBNM boundaries.
- The management plan should be developed to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

#### **Grand Staircase-Escalante**

- Grand Staircase-Escalante National Monument (GSENM) was established by Presidential Proclamation No. 6920 on September 18, 1996, and was BLM's first national monument. It is located in Kane and Garfield Counties, Utah, and continues to be managed by BLM. It encompasses 1,866,331 acres.
- The resources identified in the Proclamation include geologic, paleontological, archaeological, and biological resources. It also contains many objects that are common or otherwise not of particular scientific or historic interest.
- Almost 47 percent of GSENM lands (881,997 acres) are included in WSAs.
- While overall permitted livestock grazing within GSENM is at roughly the same level now as it was at the time of designation, the actual number of cattle runs has decreased due to restrictions on activities that facilitate grazing, including moving water lines, vegetative management, erosion control measures, and maintenance of infrastructure such as fences and roads.
- Motorized vehicle use is limited both by the GSENM Proclamation and the Monument Plan. This has created conflict with Kane and Garfield Counties' transportation network and affected access for recreational activities.
- Areas encompassed within GSENM contain an estimated several billion tons of coal.
- Each monument designation DOI reviewed under EO 13792 had some form of public outreach before designation, with the exception of GSENM.

#### *Recommendations:*

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.

- The boundary should be revised through the use of appropriate authority, including lawful exercise of your discretion granted by the Act to ensure that the monument reservation is limited to the smallest area compatible with the protection of the objects identified.
- The management plan should be revised to protect objects as well as prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

### **Katahdin Woods and Waters**

- Katahdin Woods and Waters National Monument (KWWNW) was established by Presidential Proclamation No. 9476 on August 24, 2016. The KWWNM consists of just over 87,500 acres in Maine that were donated to the Federal Government for the purpose of inclusion in the National Park System.
- Thirteen parcels were donated and conveyed under separate deeds to the United States and recorded on August 23, the day before KWWNM was designated by the President.
- In the 113<sup>th</sup> Congress, a draft legislative proposal was circulated to create a national park within the same boundary that encompasses KWWNM. Ultimately, Members of the Maine congressional delegation declined to introduce legislation.
- Timbering has historically occurred on these lands. After purchase from private landowners some traditional uses such as hunting and snowmobiling were permitted as part of the custom of the local area.
- While the land is now public and open for use, there are still concerns that timber harvest and snowmobiling access will not be permitted in all parts of KWWNM.
- Use restrictions imposed by the designation of KWWNM are the result of generally applicable National Park Service (NPS) regulations.
- Commercial timbering is not typically allowed in units of the National Park System, however 54 U.S.C. § 100753 provides limited authority for cutting of timber to “conserve . . . historic objects.”
- There is a strong historical role of timbering in the region, and the KWWNM Proclamation gives extensive attention to this as part of the narrative for the designation.

### *Recommendation:*

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing promote a healthy forest through active timber management.
- The management plan should be developed to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.

### **Northeast Canyons and Seamounts**

- The Northeast Canyons and Seamounts Marine National Monument (NCSMNM) was established by Presidential Proclamation No. 9496 on September 15, 2016.
- The NCSMNM spans 3,144,320 acres and is located approximately 130 miles southeast of Cape Cod, Massachusetts.
- The NCSMNM is managed through the DOI U.S. Fish and Wildlife Service National Wildlife Refuge System and the DOC National Oceanic and Atmospheric Administration.
- The Proclamation stated that NCSNM was established to protect geologic features, natural resources, and species.
- While in some cases specific objects are identified by name, in other instances the Proclamation simply identifies a class of objects contained within the Monument.
- One such class of object are the marine canyons. However, the Proclamation recognizes that marine canyons are common along the East Coast.
- Fishing commercially is prohibited within the Monument, with the exception of red crab and American lobster fisheries; these fisheries can continue for up to 7 years.
- There is no explanation in the Proclamation as to why the objects are threatened by well-regulated commercial fishing.
- Commercial fisheries operate in and around the NCSMNM, predominantly around the landward edges of the canyons. These areas support fisheries for a variety of species of fish and shellfish, providing income and employment throughout the Northeastern United States. In its public comments, the New England Fishery Management Council stated that 1) management in NCSMNM should remain under the Magnuson-Stevens Fishery Conservation and Management Act; and 2) the designation of NCSMNM disrupts the Council's ability to manage species to balance protection with commercial fishing.
- The Council further noted that the pre-designation process was not consistent with the full public consultation process usually conducted under the Magnuson-Stevens Fishery Conservation and Management Act.

#### *Recommendation:*

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also allowing the regional fishery management council to make fishery-management decisions as authorized by the Magnuson-Stevens Fishery Conservation and Management Act.

### **Organ Mountains-Desert Peaks**

- Organ Mountains-Desert Peaks National Monument (OMDPNM) was established by Presidential Proclamation No. 9131 on May 21, 2014. It is a BLM-managed monument consisting of 496,529 acres in Doña Ana County, New Mexico.
- The resources identified in the Proclamation are visual, cultural, geologic, paleontological, and ecological.



- The OMDPNM consists of 4 unconnected areas and contains 176,310 acres of WSAs.
- The OMDPNM is in proximity to strategic national security installations, and one part of OMDPNM, the Potrillos Mountain Complex, is in close proximity to the U.S.-Mexico border.
- Border security is a concern resulting from the designation, as the Proclamation restricts motorized transportation close to the border.
- The remoteness and topography of the Potrillos Mountain Complex lends itself to a drug smuggling route and needs to be monitored.
- The Potrillos Mountain Complex also encompasses the Mesilla groundwater basin. The basin has an unknown potential to address future water needs, recharge, salinity control, and storage.
- Legislation introduced in the 115<sup>th</sup> Congress would designate parts of the current boundaries of OMDPNM as wilderness and release other areas from WSA management. The legislation largely utilizes the boundaries of the current OMDPNM.
- A robust ranching community has operated in the area for decades and heavily contributes to the local economy.
- The designation could prevent access to parts of allotments. Further, vegetative management and other maintenance work could be restricted and further degrade the ability for ranchers to run cattle.

*Recommendation:*

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with the Department of Homeland Security to address impediments to national security associated with the Potrillos Mountain Complex.
- The DOI should work with the Department of Defense to assess risks to operational readiness of nearby military installations.
- You should request congressional authority to enable tribal co-management of designated cultural areas.
- The management plan should be developed to protect objects and prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

**Pacific Remote Islands**

- The Pacific Remote Islands Marine National Monument (PRIMNM) was established by Presidential Proclamation No. 8336 on January 6, 2009, and expanded by Presidential Proclamation No. 9173 on September 2014. It spans approximately 313,941,851 acres.

- PRIMNM is managed through the DOI U.S. Fish and Wildlife Service National Wildlife Refuge System and the DOC National Oceanic and Atmospheric Administration.
- The original PRIMNM boundary is comprised of rectangular areas that extend approximately 50 nautical miles (nm) from the mean low water lines of Howland, Baker and Jarvis Islands; Johnston, Wake and Palmyra Atolls; and Kingman Reef. The expansion extends the boundary from the 50 nm boundary to the 200 mile seaward limit of the U.S. Exclusive Economic Zone around Jarvis Island and Johnston and Wake Atolls.
- The primary purpose of the designation was to protect the coral reef and associated species surrounding these islands.
- Commercial fishing is prohibited within PRIMNM.
- Prior to monument designation, there were Hawaiian and American Samoan longliners and purse seiners vessels operating. Indirect benefits of the purse seine fishery are important to the economy of American Samoa, which is heavily dependent on these vessels. American Samoa is under the jurisdiction of DOI.

#### *Recommendation*

- Proclamation No. 9173 should be amended or the expanded boundary be revised, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also allowing the regional fishery management council to make fishery-management decisions for fishing in the expansion area as authorized by the Magnuson-Stevens Fishery Conservation and Management Act.

#### **Rio Grande Del Norte**

- Rio Grande Del Norte National Monument (RGDNNM) was established by Presidential Proclamation No. 8946 on March 25, 2013 and is located in Taos County, New Mexico.
- It consists of 242,710 acres managed by BLM and contains 7,050 acres of WSAs.
- The resources identified in the Proclamation are cultural, historic, and ecological.
- Several legislative proposals have been introduced in the past to establish a National Conservation Area in the same footprint as RGDNNM, the most recent in 2010. All legislative attempts were unsuccessful.
- Grazing is a significant traditional use in RGDNNM. However, I heard from local stakeholders that a lack of access to roads due to monument restrictions has left many grazing permittees choosing not to renew permits.

#### *Recommendations*

- The Proclamation should be amended, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also prioritizing public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.

- You should request congressional authority to enable tribal co-management of designated cultural areas.
- The management plan should be developed to protect objects and also prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.
- The DOI should work with Congress to secure funding for adequate infrastructure and management needs to protect objects effectively.

### **Rose Atoll**

- Rose Atoll Marine National Monument (RAMNM) was established on January 6, 2009, by Presidential Proclamation No. 8337.
- The RAMNM extends out approximately 50 nm from the mean low water line of Rose Atoll and encompasses 8,609,045 acres of emergent and submerged lands and waters of and around Rose Atoll.
- The RAMNM was established to protect the reef ecosystem, which is home to diverse terrestrial and marine species.
- Rose Atoll is also designated as a National Wildlife Refuge, established on July 5, 1973, by cooperative agreement between the Government of American Samoa and the U.S. Fish and Wildlife Service.
- Commercial fishing is prohibited in RAMNM.
- Fishing in American Samoa is a mixture of commercial, subsistence, traditional, and sport fishing. American Samoa's economy is heavily dependent on can tuna fish production, and many monument designations have contributed to ongoing threats to the viability of the industry.
- Prior to 2002, the waters that were included in RAMNM and adjoining areas closer to the main islands were important commercial fishing areas.

### *Recommendation:*

- The Proclamation should be amended or the boundary be revised, through the use of appropriate authority, including lawful exercise of your discretion granted by the Act, to ensure compliance with the provisions and intent of the Act while also allowing the regional fishery management council to make fishery-management decisions as authorized by the Magnuson-Stevens Fishery Conservation and Management Act.

Specific monument modification measures will be submitted separately should you concur with the monument modification recommendations in this Final Report.

### *B. Monument Additions*

There are many instances of the use of the Act for the proper stewardship of objects of cultural, historic, or scientific interest. Through stakeholder engagement, DOI identified new sites that may merit protection and designation under the Act. This would provide an opportunity to work with Congress to establish a standard process for public input and monument designations in the future.

This process should include clear criteria for designations and methodology for meeting conservation and protection goals. Both should be fully transparent so that the public may provide the exigency for designation and weigh the benefits of protection against economic harm to the public. Options to establish this new monument-designation process needs to include legislation, as well as regulations, or internal guidance within the Executive Branch, such as an Executive Order or a Secretary's Order.

One such location that has come to DOI's attention is Camp Nelson, an 1863 Union Army supply depot, training center, and hospital in Kentucky. It encompasses approximately 4,000 acres and served as the third largest recruitment and training center for African-American regiments during the Civil War. I recommend that DOI begin a public process to weigh designating this location as a national monument.

The Consolidated Appropriations Act of 2017 included direction to NPS to conduct several special resource studies for civil rights sites in Mississippi. While each location is of interest, one location to highlight is the Medgar Evers Home in Jackson, Mississippi. Mr. Medgar Evers was the first National Association for the Advancement of Colored People (NAACP) field secretary in Mississippi and organized protests and boycotts against segregation across Mississippi. He was assassinated outside his home in 1963 by a white supremacist. The NPS in 2017 designated his house as a National Historic Landmark. I recommend these sites be examined for possible monument designation.

Another location that may qualify for protection under the Act is the Badger-Two Medicine area, which is approximately 130,000 acres within the Lewis and Clark National Forest in northwestern Montana. It is bounded by Glacier National Park, the Bob Marshall Wilderness, and the Blackfeet Indian Reservation. This area of the Rocky Mountain Front was designated a Traditional Cultural District in May 2014, and is considered sacred by the Blackfeet Nation. I recommend this area be considered for designation as a national monument and as a candidate for co-management with the Blackfeet tribe.

### *C. Other Monuments*

In conducting the review pursuant to the Order, I was asked to consider monuments where the designation or expansion was made without adequate public outreach and coordination with relevant stakeholders. The review process uncovered inadequate coordination with the sportsmen community, particularly where monument designations were assigned management by the NPS, which are closed to hunting due to NPS regulations that implement its enabling statutes.

One example is the Castle Mountains National Monument (CMNM), which was established by Proclamation No. 9394 on February, 16, 2016. The CMNM consists of approximately 21,000 acres and is managed by the NPS. The CMNM was designated adjacent to the Mojave National Preserve, which by statute permits hunting. However, the CMNM Proclamation is silent as to hunting. As a result, hunting is prohibited within the 21,000-acre Monument, while it is permitted in the adjacent Mojave National Preserve.

I therefore recommend ongoing review of monuments to ensure that while continuing to protect objects, the proclamations prioritize public access; infrastructure upgrades, repair, and maintenance; traditional use; tribal cultural use; and hunting and fishing rights.

#### *D. Management Plans*

The DOI heard from many stakeholders that its management plans associated with monuments are restrictive and difficult to navigate. When monuments are designated, the underlying land ownership remains, typically including the applicable management authorities associated with the land-managing agency. The overriding management framework then becomes the protection of the objects of historic or scientific interest. However, there is discretion in this management “overlay,” and the DOI review reveals that this requirement has at times been too strictly interpreted to impede allowable uses under management plans. The DOI plans to undertake a review of existing monument management plans and update them with those considerations in mind. The DOI believes this can be done in a manner that is consistent with public access, infrastructure, traditional use, tribal cultural use, and hunting and fishing rights.

#### *E. Congressional Requests*

As noted above in the case of BENM, GBNM, OMDPNM, and RGDNNM, I recommend that you ask Congress to legislate tribal co-management authority and to examine more appropriate public land-use designations. Further, as discussed above, a number of current national monuments were created with inadequate consultation with the state, local, and tribal governments and communities most affected. This has resulted, in many cases, in national monuments that restrict the use of far too much land. I therefore recommend that your Administration work with Congress to develop legislative reforms to prevent similar misuse of the Act in the future.

cc: Director, Office of Management and Budget  
Assistant to the President for Economic Policy  
Assistant to the President for Domestic Policy  
Chairman, Council on Environmental Quality